

BRIGHAM YOUNG

Stuart M. Young

No 21.

LOWERY

RH-98672

Vault

Box A 02A

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To
A. Perry, 2000
from the father of
Bingham Perry
July 5, 1857
L. C. Perry

ACTS AND RESOLUTIONS

PASSED BY THE

James,
No. 21.

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF UTAH,

DURING THE SIXTH ANNUAL SESSION, 1856-7:

TOGETHER WITH THE

LAWS OF THE UNITED STATES

APPLICABLE TO TERRITORIES.

JAMES MCKNIGHT, PRINTER.

GREAT SALT LAKE CITY:

1857.

BY AUTHORITY:
THREE THOUSAND COPIES ORDERED PRINTED.

RESOLUTIONS AND ACTS OF THE TERRITORY OF UTAH.

RESOLUTIONS

Changing the Seat of Government of Utah Territory, and the place of holding the Supreme Court therein.

Whereas the General Government has failed to make an appropriation for the completion of the public buildings at the seat of government of this Territory:

And whereas the Territory has already expended thereon upwards of ten thousand dollars over and above the amount appropriated by Congress:

And whereas we deem it advisable to change the seat of government from Fillmore to Great Salt Lake City, until the public buildings at Fillmore City are further completed:

And whereas suitable accommodations can be furnished in Great Salt Lake City:

And whereas it is our duty to pursue that course in regard to legislation best calculated to promote the public interest:

Therefore, Be it resolved by the Governor and Legislative Assembly of the Territory of Utah, That the seat of government is removed from Fillmore City to Great Salt Lake City, until otherwise provided by law.

And be it further resolved, That the Supreme Court hold its annual sessions in Great Salt Lake City, so long as the seat of government remains at that place.

And be it further resolved, That this Legislative Assembly adjourn until 10 o'clock a. m. on the 18th inst., to convene and hold the remainder of its session in the

Social Hall, or other suitable place, to be provided by the Secretary pro tem., in Great Salt Lake City.

Repealing clause. All laws and parts of laws conflicting with these resolutions are hereby repealed.

These resolutions shall be in force from and after their passage.

Approved Dec. 15, 1856.

AN ACT

Granting unto Heber C. Kimball and William McBride a herd ground.

Boundaries.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of land in the county of Tooele and Territory of Utah, bounded as follows, to wit: beginning at a certain creek about seven miles south from Grantsville, known as Box Elder creek in said county, at the base of the mountain; thence running south two and a half miles; thence east five miles; thence north five miles; thence west five miles; thence south two and a half miles to the place of beginning; together with exclusive use and control of the water of said creek, be, and the same is hereby granted unto Heber C. Kimball and William McBride, and their associates for herding, farming and other purposes.

Herding and other purposes.

Surveyor General to establish boundaries.

Sec. 2. When the Territorial Surveyor General shall have run the lines of the above granted premises, according to the above described boundaries, the lines thus established by the Surveyor General shall be the true and lawful boundaries of said grant.

Exclusive use.

Term of grant.

Sec. 3. The said Heber C. Kimball and William McBride shall have the exclusive use and control of said grant, during the pleasure of the Legislative Assembly.

Approved Jan. 3, 1857.

AN ACT

*To amend 'An act incorporating the Davis County Canal Company,'
Approved January 12, 1856.*

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the act entitled "An act incorporating the Davis County Canal Company," approved January 12, 1856, be amended by striking out the name of John Bear, and inserting after Brigham Young, sen., the name of Heber C. Kimball, and the letter R in the name of Wm. Smith, so as to read William R. Smith. Amendment.

Approved Jan. 3, 1857.

AN ACT

To amend "An act granting unto John Stoker, William Smith, John W. Hess and Abiah Wardsworth the north end of Weber Valley for a herd ground and other purposes," approved January 8, 1856.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the bill entitled "An act granting unto John Stoker, William Smith, John W. Hess and Abiah Wardsworth the north end of Weber valley for a herd ground and other purposes," approved January 8, 1856, be amended by adding the name of Allen Taylor, between the names of John W. Hess and Abiah Wardsworth, and by adding the letter R to the name of William Smith, so as to read William R. Smith. Amendment.

Approved Jan. 5, 1857.

AN ACT

To amend "An act to incorporate the Weber Canyon Road Company," approved January 19, 1855.

Sec. 1. Be it enacted by the Governor and Legisla-

Names added.

Davis instead of
Weber county.

tive Assembly of the Territory of Utah, That "An act incorporating the Weber Kanyon Road Company," approved January 19, 1855, be amended by adding the names of William R. Smith, John Stoker, John W. Hess and Allen Taylor, before the name of Ira N. Spaulding, in the second and third lines of the first section; and that the aforesaid act be so amended as to read "Davis" instead of "Weber" county.

Approved Jan. 6, 1857.

AN ACT

To encourage the raising of Cotton, Indigo and Madder.

\$400 appropriated.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the sum of four hundred dollars, be, and the same is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to be paid in awarding premiums, as follows:—

Award for Cotton.

Sec. 2. The person that shall raise the greatest quantity of good, merchantable cotton, from five acres of land, shall be entitled to a premium of one hundred dollars.

Award for Indigo.

Sec. 3. The person who shall produce the greatest number of pounds of good, merchantable indigo, from one fourth of an acre of land, shall be entitled to a premium of one hundred dollars.

Award for Madder.

Sec. 4. The person who shall produce the greatest number of pounds of good, merchantable madder, from one fourth of an acre of land, shall be entitled to a premium of one hundred dollars.

Evidences required.

Sec. 5. All claims for the above premiums must be accompanied with sufficient evidence of the extent of land used, the quantity of seed planted, and that it was raised in the year 1857, within the limits of this Territory, and be accompanied by a written statement of the quantity of seed planted, kind of soil, how the soil is prepared, when planted, treatment while growing, when harvested, and quality of article produced. Said evidence and statement must be filed with the Au-

Evidences filed
with Auditor.

ditor of Public Accounts, on or before the first of December next.

Sec. 7. As soon after the first of December as practicable, the Auditor shall give each successful claimant an order on the treasury for the amount of premium due. Auditor to give orders on treasury.

Approved Jan. 6, 1857.

RESOLUTION

In relation to Recorder of Marks and Brands.

Resolved by the Governor and Legislative Assembly of the Territory of Utah, That the sum of two hundred and fifty eight dollars and sixty four cents, be appropriated out of any moneys in the treasury, not otherwise appropriated, to pay the recorder of marks and brands, for the expense incurred for the publication of the books containing the marks and brands; and that the said books, brand sheets, and characters and property pertaining to said office, become the property of the Territory. \$258 64 appropriated. Books to become the property of Territory.

Approved Jan. 14, 1857.

AN ACT

Granting unto Seth M. Blair, John Brown, Preston Thomas and Alonzo S. Blair a herd ground in Rush Valley.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that Boundaries. portion of country bounded on the north by the land granted by the Legislative Assembly to Brigham Young, Wilford Woodruff, Luke Johnson, James W. Cummings, Samuel Bennion, William A. Hickman, Jesse C. Little and Claudius V. Spencer; on the west by the mountains skirting Rush Valley; on the south by a line run-

Herd ground and
other purposes.

ning due east from the summit of said mountains, and crossing said valley south of the first creek, south of the south line of the aforesaid grant, to the mountains on the east; thence north along the base of said mountains to the south line of said grant, be, and the same is hereby granted unto Seth M. Blair, John Brown, Preston Thomas, and Alonzo S. Blair for a herd ground and other purposes.

Exclusive use.

Term of grant.

Sec. 2. The said Seth M. Blair, John Brown, Preston Thomas, and Alonzo S. Blair, shall have the exclusive use of said grant, during the pleasure of the Legislative Assembly.

Approved Jan. 14, 1857.

AN ACT

Granting unto Lorenzo D. Young a herd ground in Great Salt Lake County, Utah Territory.

Boundaries.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of land in Great Salt Lake County, bounded by a line commencing at the Big Spring at the west mountain; thence on the west side of the Territorial road, north eighty two rods; west, two hundred and ninety two rods to the south-east corner of Wm. G. Young's survey, thence north six hundred and eighty nine and a half rods, to the south shore of Great Salt Lake; thence east eight hundred and ninety rods; thence south one thousand six hundred and eight rods; thence west eight hundred and ninety rods; thence north seven hundred and fifty rods, to the south side of Wm. P. McIntire's survey; thence north seventy rods; thence east two hundred and seventy-five rods; thence north forty-eight rods to the place of beginning, be, and the same is hereby granted unto Lorenzo D. Young for a herd ground and other purposes.

Herd ground and
other purposes.

Exclusive use.

Term of grant.

Sec. 2. The Said Lorenzo D. Young shall have the exclusive use and control of said grant, during the pleasure of the Legislative Assembly.

Approved Jan. 14, 1857.

AN ACT

Granting unto Rufus C. Allen, Lorenzo W. Roundy, Amos Thornton and Richard Robinson, a herd ground in Iron and Washington Counties, Utah Territory.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of country lying in Iron and Washington counties, Utah Territory, and bounded by a line commencing at a point one mile due east of the mouth of Pinta creek kanyon, and running south-west ten miles; thence north ten miles; thence east ten miles; thence south to the place of beginning, be, and the same is hereby granted unto Rufus C. Allen, Lorenzo W. Roundy, Amos Thornton and Richard Robinson, and those whom they may associate with them, for a herd ground and other purposes.

Boundaries.

Herd ground and other purposes.

Sec. 2. The said Rufus C. Allen, Lorenzo W. Roundy, Amos Thornton, Richard Robinson and their associates, shall have the exclusive use and control of said grant, with the waters of said kanyon, for herding and other purposes, during the pleasure of the Legislative Assembly: *Provided*, they shall not prevent the public from passing through said grant, or grazing their teams thereon, or using the necessary fuel while doing so.

Exclusive use and control.

Term of grant.
Proviso.

Approved Jan. 14, 1857.

AN ACT

Granting unto Lewis Robinson the right of certain lands for a herd ground, farming and other purposes, in Green River County.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that tract of country on Black's Fork in Green River county, within the following limits; commencing at the north-west corner of Fort Bridger survey, running two miles north; thence six miles east; thence six miles south; thence six miles west, to a point on the western boundary line of said survey; thence four miles north to the

Boundaries.

place of beginning, be, and the same is hereby granted unto Lewis Robinson for a herd ground, farming and other purposes; together with all the natural facilities and interest, consisting of water, wood, mowing-grass and range for stock, &c., during the pleasure of the Legislative Assembly.

Sec. 2. The said Lewis Robinson shall have the exclusive right and control of said grant; together with all the benefits and privileges arising therefrom: *Provided*, the traveling community shall not be debarred the privilege of grazing their teams thereon, and using fuel for camp purposes, as may be necessary while passing through the same.

Approved Jan. 14, 1857.

AN ACT

To amend "An act regulating the mode of procedure in civil case in the Courts of the Territory of Utah," approved Dec. 30, 1852.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That any deed of conveyance made by a sheriff or collector of taxes, in pursuance of an order of court, and executed and recorded according to the statutes of the Territory, shall be deemed valid in law.

Sec. 2. Any deed heretofore made by those officers, or by the courts themselves, in pursuance of law, and by virtue of an order, or decree of court, is hereby legalized.

Approved Jan. 14, 1857.

AN ACT

Granting unto Brigham Young sen., and Franklin D. Richards the control of waters from Mill Creek in Salt Lake County.

Sec. 1. Be it enacted by the Governor and Legis-

lative Assembly of the Territory of Utah, That all the rights and privileges as contemplated in "An act granting the control of waters from Mill Creek in Great Salt Lake county unto Willard Richards," approved Feb. 3, 1852, be, and hereby are granted unto Brigham Young, sen., and Franklin D. Richards.

Approved Jan. 14, 1857.

AN ACT

Appropriating money for a Territorial road in Juab County.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the sum \$300 appropriated of three hundred dollars be, and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be expended by and under the direction of the county court of Juab county, in repairing the Territorial road in Salt Creek kanyon in said county. How & by whom expended.

Sec. 2. When this appropriation is expended and the work accepted by the Territorial Road Commissioner, he shall give a certificate to each undertaker, certifying the amount he is entitled to, which certificate shall be a voucher for the Auditor of Public Accounts to draw a warrant on the treasury for the amount. By whom work accepted. Commissioner to give certificate.

Approved Jan. 15, 1857.

AN ACT

To amend "An act granting to Isaac Bullock and Lewis Robinson the right to erect ferries across Green River, and control the same."

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That "An act granting to Isaac Bullock and Lewis Robinson, the right to erect ferries across Green river and control

Amendment.

the same," approved Dec. 27, 1855, is hereby amended by striking out the words "Provided that nothing herein shall justify the parties in taking more than one third over the within specified rates of toll," in the fifth, sixth and seventh lines of section third, in said act.

Approved Jan. 14, 1857.

RESOLUTION

Creating the office of Superintendent of Meteorological Observations, and appropriating money therefor.

Duties of superintendent.

Be it resolved by the Governor and Legislative Assembly of the Territory of Utah, That there shall be appointed a superintendent of Meteorological observations, whose duty it shall be to take charge of the instruments and apparatus appertaining thereto; to keep a journal of such daily readings and observations as may be required, and furnish monthly reports therefrom for publication; for which service he shall receive a yearly compensation of two hundred dollars, payable quarterly upon the Auditor's warrant drawn upon the treasurer.

Compensation.

How appointed and removed.

Under whose control.

Resolved, That the said superintendent shall be appointed and removed at pleasure by the Governor; shall be under the direction and control of the Governor, and of the Chancellor of the University of the State of Deseret, and shall keep his office and take his observations in Great Salt Lake City.

Approved Jan. 15, 1857.

AN ACT

To amend an act entitled "An act regulating the mode of procedure in civil cases in the Courts of the Territory of Utah."

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the

fifteenth section of said act be so amended, as to read Amendment.
 from the word "plaintiff" in the fifth line, "or that the
 defendant has left, or there is good reason to believe,
 intends leaving in said Territory, any person whom he
 is bound by law to support, unprovided for, or any
 person having sued for a bill of divorce, and the right
 of property undecided."

Approved Jan. 14, 1857.

AN ACT

To attach Carson County to Great Salt Lake County.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That Carson county be attached to Great Salt Lake county for election, revenue and judicial purposes.

Sec. 2. Said county is allowed to retain its present organization, so far as county recorder, surveyor, precincts and precinct officers are concerned, and may continue to elect those officers in accordance with the existing arrangements and laws, until further directed by Great Salt Lake County Court, or Legislative enactment. Officers and offices retained.

Sec. 3. The notices of election and returns, shall be made to the county recorder, who shall qualify the officers so elected, approve their bonds, and file them in his office. Election and qualification of officers.

Sec. 4. The apportionment of one Representative to the Legislature for Carson, is changed to Great Salt Lake county. Representation changed.

Sec. 5. The records, books, papers, blanks and seals, both of the probate and county courts shall be delivered over to the order of the probate court of Great Salt Lake county. Records, books, &c., how disposed of.

Sec. 6. That so much of the "Resolution" specifying the times of holding United States courts in the several judicial districts of the Territory of Utah," approved Jan. 17, 1856, as requires a district court to be held on the first Monday of July in the county seat of Repealing clause.

Carson county, and all other laws conflicting with this act, are hereby repealed.

Approved Jan. 14, 1857.

AN ACT

Granting unto Warren S. Snow, George Snow, Jeremiah Hatch, Daniel B. Funk and John Lowry, jr., a herd ground in San Pete County.

Boundaries.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of San Pete county, bounded by a line commencing at the mouth of the creek known as Twelve Mile creek; thence down said creek to the San Pete river; thence down San Pete river to the Sevier river; thence up said Sevier river to the mouth of Salt creek; thence east to the base of the mountains; thence north along the base of said mountains, to the place of beginning, be, and the same is hereby granted unto Warren S. Snow, George Snow, Jeremiah Hatch, Daniel B. Funk and John Lowry, jr., for a herd ground and other purposes.

Herd ground and other purposes.

Exclusive use and control.
Term of grant.
Proviso.

Sec. 2. The said Warren S. Snow, George Snow, Jeremiah Hatch, Daniel B. Funk and John Lowry, jr., shall have the exclusive control of said grant during the pleasure of the Legislative Assembly: *Provided*, they shall not prevent the citizens of this Territory from settling upon the same, or getting wood and poles therefrom, and grazing their teams on said grant while so employed.

Approved Jan, 14, 1857.

AN ACT

Amending "An act granting unto Wm. W. Phelps and Hugh McKinney, a herd ground," approved Jan. 12, 1856.

Be it enacted by the Governor and Legislative As-

sembly of the Territory of Utah, That the first section of the "Act granting unto Wm. W. Phelps and Hugh McKinney a herd ground," be, and is hereby amended *Amendment.* so as to read, on the tenth line of the first section of said act, for "southwardly," "south-east;" and after the last word of the said first section, add "mill privileges and other purposes."

Approved Jan. 14, 1857.

AN ACT

Authorizing the compilation and publication of the United States laws in force in, and applicable to this Territory.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the compilation of the United States laws, made and submitted by the committee on judiciary, as being in force in, and applicable to this Territory, be published in connection with the Statutes of this session.

Approved Jan. 14, 1857.

RESOLUTION

Authorizing the Auditor of Public Accounts to settle with the Recorder of Marks and Brands.

Resolved that the Auditor of Public Accounts settle *Auditor to settle.* with Mr. William Clayton, recorder of marks and brands; and that he give him an order upon the treasury *Give order on treasury.* for any additional amount that may be found his due; and that the additional sum of one hundred and fifty dollars be appropriated to pay the same. *Appropriation.*

Approved Jan. 14, 1857.

AN ACT

In relation to Quarantine.

County courts to locate quarantine. County courts to make regulations. Persons refusing to comply.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the county courts of the several counties be, and are hereby authorized to locate quarantine grounds, and to make such quarantine regulations as they may deem proper, to prevent the introduction of contagious diseases, and the spread of the same within their jurisdiction.

Fine.

Sec. 2. Any person refusing to comply with the requirements of the county courts, or who shall wilfully or knowingly introduce any contagious disease into any settlement, shall be liable to pay a fine of not less than fifty, nor more than one thousand dollars, before any court having jurisdiction.

Approved Jan. 14, 1857.

AN ACT

Creating the office of Sealer of Weights and Measures for the Territory of Utah.

Sealer elected annually. To give bonds. How commissioned.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That there shall be elected annually by the joint vote of the Legislative Assembly, a Sealer of weights and measures, who shall, immediately after receiving official notice of his election, give bonds, to be approved by, and filed with the Territorial treasurer, and be commissioned by the Governor, as other Territorial officers.

Duties of Sealer. Shall appoint deputies. Duties.

Sec. 2. It shall be the duty of the person so elected, to procure, so soon as practicable after his election, a full set of weights and measures, which shall be according to the seal and standard of the United States: who shall appoint a deputy in each organized county, on application of the county court, except the county in which he resides, and shall furnish said deputy with a set of weights and measures, at the expense of the county making application.

Sec. 3. All weights and measures used by millers, merchants, or any other dealers in dry or wine measures, or other merchandise, shall be gauged and sealed according to said standard by the Territorial sealer of weights and measures, or his deputy, who is hereby authorized to demand and collect from any person obtaining from him his official seal, to any weight or measure, a reasonable compensation for the same.

What weights
&c. shall be sealed.

Compensation.

Sec. 4. Any person dealing in any article of produce, or merchandise, who shall use weights or measures, other than the standard herein specified, shall be liable to pay a fine of not less than one, nor more than five hundred dollars for each offence, and all damages accruing therefrom to the party injured, by an action before any court having jurisdiction thereof.

Persons liable to fine.

Damages.

Approved Jan. 14, 1857.

AN ACT

Granting a herd ground, and making an appropriation for Military purposes.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of country lying between the Jordan river on the east, and Great Salt Lake and Lorenzo D. Young's herd ground on the west, and north of the road leading from Great Salt Lake City across the Jordan bridge to Black Rock, except such enclosures now already made as may not hereafter be added by arrangement with the present proprietors, is hereby granted unto the Lieutenant General commanding the Nauvoo Legion, and such others as may be associated with him, for the purposes of a herd ground, wherein to keep horses for military use and other purposes, who shall have the entire use and control of the same, with authority to enclose it or any portion thereof.

Boundaries.

Lieut. Gen. &c.,
to have entire use
and control.

Authority to enclose.

Sec. 2. That to further promote the public defenses of the Territory, the sum of three thousand five hundred dollars is appropriated, to be drawn and paid

\$3,500 appropriated.

Lieut. Gen. au-
thorized to ex-
pend.

out of any moneys in the treasury upon the order of the Lieutenant General, who is hereby authorized to expend the same in the establishment of a military school, purchase of supplies for the Quartermaster and Commissary department, and for such other purposes as he may deem proper for the benefit of the public interests.

Approved Jan. 14, 1857.

AN ACT

To repeal "An act concerning Fortifications."

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That an act entitled "An act concerning Fortifications," approved January 10, 1855, be, and the same is hereby repealed.

Approved Jan. 14, 1857.

AN ACT

Granting unto John L. Butler and Aaron Johnson the right of water from Spanish Fork river, in Utah county.

Grant of one
fourth of water.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory, That the privilege is hereby granted unto John L. Butler and Aaron Johnson, to take one fourth of the water from the channel of Spanish Fork river, at or near the head of a slough near Spanish Fork City, and convey the same on the best possible route to a tract of land known as the Springville survey, plot D, and control the same for irrigating purposes during the pleasure of the Legislative Assembly.

For irrigating
purposes,

Repeal.

Sec. 2. That the "Act granting unto Aaron Johnson, William Miller and John Berry and their associ-

ates, the right of water from Spanish Fork river, in Utah county," approved Dec. 27, 1855, be, and the same is hereby repealed.

Approved Jan. 14, 1857.

AN ACT

For the further organization of the Militia of the Territory of Utah.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the present acting Lieutenant General of the Nauvoo Legion, aided by six or more commissioned officers of the line or staff, to be selected by him, is hereby authorized and empowered to draft and adopt a system of laws and regulations for the militia of the Territory of Utah, and create and fill such offices as are, or may be necessary for its organization, which system of regulations shall be subject to the revision of the Legislative Assembly when in session, and shall be in force from and after their publication, unless annulled by legislative enactment.

Lieut. Gen. to draft and adopt laws.

To create and fill offices.

Subject to revision.

Sec. 2. That the Lieutenant General shall hereafter be elected by the people, at such time and place as shall be directed by the Governor.

Lieut. Gen., how elected.

Sec. 3. All laws and parts of laws conflicting with this act are hereby repealed: *Provided*, that the present laws shall continue in force until superseded, as herein provided for.

Repeal.
Proviso.

Approved Jan. 15, 1857.

AN ACT

Granting a ranch and herd ground unto James C. Snow, James Adams Charles Cirrol, George W. Bean, Edson Barney, William A. Follet and Philander Colton.

Sec. 1. Be it enacted by the Governor and Legis-

Provo valley
granted.

lative Assembly of the Territory of Utah; That Provo valley, in Utah county, Utah Territory, be, and the same is hereby granted unto James C. Snow, James Adams, Charles Carrol, George W. Bean, Edson Barney, William A. Follett and Philander Colton for a ranch and herd ground.

Ranch and herd
ground.

Exclusive use and
control.

Provido.

Sec. 2. The said James C. Snow, James Adams, Charles Carrol, George W. Bean, Edson Barney, William A. Follett and Philander Colton shall have the exclusive use and control of said grant during the pleasure of the Legislative Assembly: *Provided*, they do not prevent the citizens of Utah Territory from settling in said valley, or getting wood, poles and timber from the same, and grazing their teams thereon while doing so.

Approved Jan. 15, 1857.

AN ACT

To extend the boundaries of Spanish Fork City.

Boundaries.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That all that portion of country commencing at the south-west corner of Spanish Fork incorporation; thence west to Peetneet creek; thence down said creek to the shore of Utah lake; thence north-easterly along the shore of said lake to a point from which a south-east line will strike the mouth of the main sect, leading into plat D, (Springville survey) thence on a line of said sect to where it intersects the big slough; from thence to the north-east corner of the Palmyra field; thence to the south-east corner of the present Springville survey; thence east to the mountains; from thence on the present line of Spanish Fork City incorporation to the place of beginning, is hereby attached to, and included in the Spanish Fork City charter.

Repeal.

Sec. 2. So much of all acts heretofore passed as may conflict with this act are hereby repealed.

Approved Jan. 14, 1857.

RESOLUTION

For convening the Legislative Assembly.

Resolved by the Governor and Legislative Assembly of the Territory of Utah, That the regular sessions of the Legislative Assembly, hereafter shall commence annually on the second Monday of December, at ten o'clock A. M., in the Social Hall, at Great Salt City, until altered by legislative enactment.

Approved Jan. 14, 1857.

AN ACT

Concerning Partnership.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the private property of persons engaged in co-partnerships shall be held liable for the debts of the firm when the partnership property shall prove insufficient to pay them. Private property
liable.

Sec. 2. The assignment of any partner in trade, made to secure or satisfy a creditor of such firm, shall be deemed valid in law. Assignment valid

Sec. 3. This act shall not be so construed as to authorize the assignment of any of the effects of such copartnership to satisfy the individual claim of any of the parties, or other than such debts as are incurred for the effects or proceeds thereof, thus assigned. Whole assignments
not valid.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved Jan. 14, 1857.

TERRITORIAL APPROPRIATION BILL.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That there be

paid out of any money in the Territorial treasury not otherwise appropriated, the following amount, viz:

Road Commissioner.

To the Road Commissioner for Order No. 1, drawn on the Auditor in favor of Jesse W. Fox, for services rendered in Weber county, twelve dollars.

Deseret A. & M. Society.

Sec. 2. To the Deseret Agricultural and Manufacturing society, one thousand dollars.

Auditor.

Sec. 3. To James W. Cummings for service, stationery, &c., as Auditor of Public Accounts for the fiscal year ending Jan. 7th, 1856-7, four hundred dollars.

Treasurer.

Sec. 4. To Daniel Mackintosh, Territorial treasurer, for service, stationery, &c., for the fiscal year ending Jan. 7th, 1856-7, three hundred dollars.

Adj't Gen'l.

Sec. 5. To Hiram B. Clawson for service, &c., as Adjutant General for the fiscal year ending Jan. 7th, 1856-7, eight hundred dollars.

Daniel Carn.

Sec. 6. For the further relief of Daniel Carn, Warden of the Utah Penitentiary for the years 1855-6, six hundred dollars.

News office.

Sec. 7. To the Deseret News Office for service in 1855, two hundred and twenty three dollars.

Approved Jan. 14, 1857.

AN ACT

Providing for the publication and distribution of the Laws and Journals, &c., of the present session.

Duty of code commissioners.

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the code commissioners are hereby authorized and required to prepare, with proper indexes, marginal notes, and table of contents, the laws of the United States applicable to this Territory, together with the Acts, Resolutions, Memorials and Journals of the present session of the Legislative Assembly, and may call to their aid such

May call clerks to assist.

clerks as shall be necessary to aid them therein.
Sec. 2. Said code commissioners and clerks shall be allowed sixty days, or so much thereof as may be

necessary to complete said work, and shall be allowed three dollars per day each, for the time thus expended, to be paid out of the funds appropriated by Congress for legislative purposes. Sixty days allowed.
Compensation.

Sec. 3. There shall be published three thousand copies of the above named laws, with proper indexes, marginal notes, and table of contents; and one thousand copies of the journals of the present session of the Legislative Assembly, including the Governor's message, in book form. 3000 copies of laws to be published.

Sec. 4. The secretary of the Territory is hereby required to distribute said laws and journals as provided by the second section of a "Resolution relating to the publication and distribution of the laws and journals of the Legislative Assembly of 1855-6," approved Jan. 17, 1856. Secretary to distribute.

Approved Jan. 14, 1857.

AN ACT

To amend "An act in relation to the Judiciary."

Sec. 1. Be it enacted by the Governor and Legislative Assembly of the Territory of Utah, That the words "clerk of the district court or the judge thereof," in the 12th line of sec. 23 of "An act in relation to the judiciary," approved Feb. 4, 1852, be so amended as to read "auditor of public accounts," and the auditor shall give the person filing bonds, a certificate that such bond has been approved by him and filed in his office.

Sec. 2. This act to be in force from and after its passage.

Approved Jan. 14, 1857.

GENERAL APPROPRIATION BILL.

Be it enacted by the Governor and Legislative As-

sembly of the Territory of Utah: That there be appropriated out of the sum appropriated by Congress to defray the expenses of the Legislative Assembly of the Territory of Utah, the following amounts, to wit:—

Mileage of members.

For mileage of the Legislative Members, two thousand three hundred and twenty-five dollars.

Per diem of members.

For per diem of Legislative Members, four thousand six hundred and fifty dollars.

Per diem of officers.

For per diem of Officers of the Legislative Assembly, one thousand, six hundred and fifty dollars.

Mileage of officers.

For mileage of Officers of the Assembly, five hundred and seventy-six dollars.

Librarian.

For services of the Librarian the current year, 1856-7, four hundred dollars.

Incidental expenses.

For rent, fuel, lights, printing and other incidental expenses, nine thousand, nine hundred and twenty-six dollars.

Approved Jan. 14, 1857.

MEMORIAL TO CONGRESS

Praying for the reimbursement to the Territory of funds expended on the Penitentiary, and asking that provision may hereafter be made by the General Government for the support of that institution.

Memorial.

To the Honorable the Senate and House of Representatives in Congress assembled.

We your memorialists, the Governor and Legislative Assembly of the Territory of Utah, do most respectfully represent, that

Whereas, certain persons have been convicted of crimes against the laws of the United States, by the United States Courts of this Territory, and sentenced to the Penitentiary, where they are still remaining, and

Whereas, by legislative enactments of this Territory there has been a board of Inspectors, Warden and other officers elected for said Penitentiary, and required to attend to various duties assigned them, and

Whereas, appropriations have been made, from time to time, out of the treasury of said Territory for the

services of said officers, and to enable them to defray ^{Memorial.} the expenses necessarily incurred by the confinement of said prisoners in said Penitentiary:

Therefore, We your memorialists do most respectfully pray your honorable body to require the proper officer to audit and pay the expenses of said convicts, and reimburse the Territory with the funds, by it expended for said prisoners and officers, and we would also ask Congress to make an appropriation to cover the same; and as in duty bound, your memorialists will ever pray.

Approved Jan. 16, 1857.

ERRATUM.

On page 6, third line of "An act to encourage the raising of Cotton, Indigo and Madder," "four hundred" should read "three hundred."

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APPENDIX.

ORGANIZATION

OF THE

MILITIA OF UTAH.

Agreeably to the provisions of "An act for the organization of the Militia of the Territory of Utah," approved January 14th, 1857, the board of officers appointed by, and associated with, the Lieutenant General for that purpose have adopted the following:—

System of Regulations for the present Organization and Government of the Militia of the Territory of Utah.

SEC. 1. The Militia of the Territory of Utah (under the Governor of the Territory, as Commander-in-chief) shall be commanded by a Lieutenant General, and formed into an independent military body called the Nauvoo Legion, and shall be organized into Platoons, Companies, Battalions, Regiments, Brigades, Divisions and Departments, as hereinafter provided for.

Militia of Utah
by whom com-
manded—how
organized.

SEC. 2. All able-bodied white male persons, between the ages of eighteen and forty-five years, resident in the Territory, are liable to military duty, except such as are, or may be, exempt by law. Commanders of districts will be held responsible for the enrolment of all persons in their districts liable to military duty. All persons voluntarily enrolling in any corps, though under the age of eighteen or over the age of forty-five years, shall be equally subject to military duty with those enrolled by virtue of the foregoing regulation: *Provided*, That such persons may on application be discharged by a published order from the Commanders of their respective districts.

Who are liable to
military duty.

Proviso.

SEC. 3. A Division shall consist of two Brigades, and be commanded by a Major General.

Division.

Brigade.

A Brigade shall consist of one thousand rank and file and be commanded by a Brigadier General.

Regiment.

A Regiment shall consist of five Battalions (five hundred rank and file) and be commanded by a Colonel.

Battalion.

A Battalion shall consist of one hundred rank and file (two Companies) and be commanded by a Major.

Company.

A Company shall consist of fifty rank and file (five Platoons) and be commanded by a Captain.

Platoon.

A Platoon shall consist of ten men, commanded by a Second Lieutenant, who with one Sergeant, shall be elected by the Platoon and of their number, and shall be included in the rank and file.

Bands of music.

SEC. 4. The Lieutenant General may, at his discretion, organize one or more Bands of Music, to be proportioned with officers as any other corps of the Legion, and assign them for duty where necessary. Bands of Divisions, Brigades, Regiments, or independent Battalions shall be composed of the Company music of such commands.

Lient. General's
Staff.

SEC. 5. The Staff of the Lieutenant General shall consist of an Adjutant General with the rank of Brigadier General of Light Artillery; one Aid-de-Camp with the rank of Brigadier General of Cavalry; a Quartermaster General with the rank of Brigadier General of Heavy Artillery; a Commissary General of Subsistence with the rank of Brigadier General of Infantry; a Chief of Topographical Engineers with the rank of Colonel; a Chief of Ordnance with the rank of Colonel of Light Artillery; one Aid-de-Camp with the rank of Colonel of Cavalry, a Paymaster General with the rank of Colonel of Cavalry; a Judge Advocate with the rank of Colonel of Heavy Artillery; one Aid-de-Camp with the rank of Colonel of Infantry; two Chaplains with the rank of Colonels of Infantry; a Surgeon General with the rank of Colonel of Infantry; a Chief of Music with the rank of Colonel of Infantry; a Military Secretary with the rank of Lieutenant Colonel of Infantry; one Color Bearer General with the rank of Major of Cavalry; one Color Bearer General with the rank of Captain of Cavalry; and such assistants in the various departments as the good of the service may require, with the ranks corresponding, to be designated by the Lieutenant General.

SEC. 6. The Staff of a Major General shall consist of a Division Adjutant with the rank of Colonel of Light Artillery; a Division Commissary (who also shall discharge the duties of Division Quartermaster) with the rank of Colonel of Heavy Artillery; a Surgeon of Division with the rank of Lieutenant Colonel of Infantry; a Chaplain with the rank of Lieutenant Colonel of Infantry; and two Aides-de-Camp with the rank of Majors of Infantry.

Major General's Staff.

SEC. 7. The Staff of a Brigadier General shall consist of a Brigade Adjutant with the rank of Lieutenant Colonel of Light Artillery; a Brigade Quartermaster (who also shall discharge the duties of Brigade Commissary) with the rank of Lieutenant Colonel of Infantry; and a Surgeon of Brigade with the rank of Major of Infantry.

Brigadier General's Staff

SEC. 8. The Staff of a Colonel shall consist of an Adjutant with the rank of Major (who shall command the Regiment in the absence of the Colonel;) a Surgeon with the rank of Captain; and a Principal Musician with the rank of Second Lieutenant.

Colonel's Staff.

SEC. 9. The Staff of a Major, commanding a separate Battalion, shall consist of an Adjutant with the rank of Captain who shall be entitled to command the Battalion in the absence of the Major.

Major's Staff.

SEC. 10. To each Company there shall be a Company Adjutant with the rank of a First Lieutenant; and two Musicians.

Company Adjutants and musicians.

SEC. 11. Staff officers shall be appointed by their respective commandants from within the limits of their commands.

Staff officers how appointed.

SEC. 12. Staff officers shall take precedence according to the rank held by virtue of their staff appointment. When a vacancy occurs in any command in the line, the Lieutenant General may appoint a Staff officer, holding suitable rank, to fill such vacancy until superseded in regular course of election, or the return of the absent officer: *Provided*, That the officer next in rank, present at the time the vacancy occurs, may assume command, until the action of the Lieutenant General on the subject.

Precedence of staff officers.

Proviso.

SEC. 13. All officers shall be commissioned by the Governor when the commands to which they are elected are filled.

Officers how commissioned.

Precedence of
corps.

SEC. 14. Precedence of corps shall be as follows, viz:—1st Light Artillery; 2nd Cavalry; 3d Heavy Artillery; 4th Infantry. Platoons in Companies; Companies in Battalions; Battalions in Regiments, Brigades, or Districts; and Regiments in Brigades or Districts; of one corps, shall take precedence from right to left (unless temporarily changed for manœuvring.) This arrangement shall be conducted under the supervision of their immediate commanders. The numbers and titles of Divisions, Brigades, Regiments, and independent Battalions shall be given by the Lieutenant General. Precedence of officers shall be:—First, according to the corps named in their commission: when of the same grade and corps, according to the date of commission; and when of the same grade, corps, and date of commission, reference shall be had to the rank of the Platoon, Company, Battalion, Regiment, Brigade, Division, District, Department, or Staff, in which such officers serve, and the rank decided accordingly. Staffs shall take precedence according to the rank of their commanding officers, Departments according to the rank of their respective chiefs as designated in the staff of the Lieutenant General.

Military districts
how organized.

SEC. 15. The Lieutenant General shall organize Military Districts at his discretion, appoint the times of District Musters, and create and fill, by appointment, any Staff offices not herein provided for, that he may deem necessary.

Muster returns
how made.

SEC. 16. Subordinate commanders in districts are required to furnish the ranking officer of each district with correct returns and muster rolls of district musters and courts martial, with a full account of the arms, ammunition, equipage, &c., on hand, who shall forward the same to the Adjutant General within twenty days after each muster and court martial. Each commanding officer, from the Lieutenant of a Platoon to the General of a Division, shall keep constantly on hand a correct record of the strength, condition, and doings of his command.

Duty of Lieut. of
Platoon.

SEC. 17. It shall be the duty of the Lieutenant of each Platoon to inspect his Platoon once a month, for the purpose of ascertaining the condition of the arms, ammunition, and equipage of his platoon.

Voluntary mus-
ters.

Voluntary Company, Battalion, or Regimental mus-

ters and drills may be held at the discretion of the several corps, and the fines for such controlled by them for their benefit.

SEC. 18. On the publication of orders for musters, the Lieutenant of each Platoon shall proceed at once to notify his men.

Notification for
musters.

SEC. 19. Fines for neglecting to appear at District Musters shall be assessed by courts martial (composed of not exceeding five commissioned officers to each) detailed by District Commanders, at the rate of not more than five dollars for non-commissioned officers, musicians and privates, and not exceeding ten dollars for commissioned officers. District Commanders shall be held responsible (and demand from subordinate commanders a similar responsibility to them) that such fines are collected and paid into the Territorial treasury.

Fines how assessed.

SEC. 20. Any person enrolled and failing to provide arms, accoutrements and ammunition suitable to his corps, where he has had an opportunity of so doing, shall be fined as a delinquent for non-attendance. Any person having disposed of his arms, accoutrements, or ammunition, so as to leave himself unprovided, shall, upon conviction before a court martial, be fined in twice the amount of the value of such, which amount shall be paid into the Territorial treasury.

Persons failing to
provide, or disposing
of arms, &c.
how punished.

SEC. 21. Courts Martial, detailed by district Commanders, shall take cognizance of, and punish by fine, all breaches of good discipline within their jurisdiction.

Jurisdiction and
duties of district
courts martial.

SEC. 22. Commissioned officers shall not be dismissed from the service, except by the sentence of a general Court Martial, but may be suspended by their commanding officers, until the decision of a general Court Martial, or the release from such suspension by the Lieutenant General. Disrespect to a superior officer; immoral conduct; neglect of duty; and incompetency, are each sufficient cause for the dismissal of an officer.

Dismissal of com-
missioned offi-
cers.

SEC. 23. General Courts Martial shall be detailed by the Lieutenant General; and shall have jurisdiction in all cases arising under the military laws of the Territory, and to try any officer when the president of the court ranks the officer on trial.

General Courts
martial how de-
tailed: jurisdic-
tion of.

Resignation of officers.

SEC. 24. Resignations of officers shall be forwarded through the Commander of the District to the Lieutenant General, but no officer shall be permitted to vacate his office until his resignation is accepted. All vacancies, howsoever they may occur, shall be reported to the Adjutant General's office, and the filling of such vacancies determined by the Lieutenant General.

Courts martial empowered to enforce their decisions.

SEC. 25. Courts Martial are hereby empowered to make provisions for enforcing their decisions in the collection of fines. Commanding officers, ordering Courts Martial shall have power to mitigate or repeal their decisions. Such mitigation or repeal must be through a published order, assigning the reason.

Elections for commissioned officers, how held.

SEC. 26. Elections for all Commissioned officers shall be as ordered by the Lieutenant General.

Military orders, how issued.

SEC. 27. All military orders shall be numbered, to commence and terminate with the year, or with the campaign. Those issued by the Lieutenant General shall be in two series: general and special. General orders are such as pertain to the Legion generally; special orders pertain to particular corps, districts, departments, or individuals, and may be addressed to such by the Lieutenant General direct. Orders issued from the Head Quarters of Divisions, Brigades, Regiments, separate Battalions, or Districts, shall be simply styled "Orders;" copies of which shall be filed in the Adjutant General's office.

Publication of orders in any newspaper lawful notice.

SEC. 28. The publication of orders from the Lieutenant General in any public newspaper of the Territory, shall be a lawful notice.

Ordnance department created.

SEC. 29. An Ordnance department is hereby created under the charge of the Chief of Ordnance. It shall consist of one Lieutenant Colonel, one Major, three Captains, and five First Lieutenants.

Topographical engineers.

SEC. 30. The corps of Topographical Engineers, under the charge of the Chief of the corps, shall consist of two Lieutenant Colonels, three Majors, five Captains, five First Lieutenants, and five Second Lieutenants.

Lieut. General to appoint the ordnance and Topographical corps.

SEC. 31. The Lieutenant General shall appoint the officers who shall constitute the Ordnance and Topographical corps, and may increase or lessen the number of either at discretion.

Adjutant General.

SEC. 32. The Adjutant General shall keep his of-

55-22-1
 fice in Great Salt Lake City, until otherwise directed by the Lieutenant General, and shall preserve therein reports of the doings of the various departments of the Legion, and may call on the proper officers for their reports, when necessary. He shall also furnish to the Governor a report of the strength and condition of the forces of the Territory, on or before the first day of December in each year.

SEC. 33. The Lieutenant General is authorized to adopt through general orders, any regulations, not contravening any provision herein contained, that he may deem essential to the good of the service.

al's office, and duties.

Additional powers of Lieut. General.

DANIEL H. WELLS;
 Lieutenant General.

JAMES FERGUSON, Adj't. Gen'l.
 A. P. ROCKWOOD, Com'y Gen'l.
 GEO. D. GRANT, Brig'r Gen'l. Cav.
 H. B. CLAWSON, Aid-de-Camp.
 L. W. HARDY, Division Com'y.
 W. H. KIMBALL, Lt. Col. Cavalry.
 WILLIAM HYDE, Lt. Col. Infantry.
 R. T. BURTON, Major Life Guards.
 HOSEA STOUT, Attorney General, U. T.

Nauvoo Legion.

James H. 21

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A

COMPILATION

OF

UNITED STATES LAWS

APPLICABLE TO TERRITORIES;

PREPARED BY, AND PUBLISHED UNDER THE DIRECTION OF THE CODE COM-
MISSION, BY VIRTUE OF AN ACT OF THE LEGISLATIVE ASSEMBLY
OF UTAH TERRITORY, APPROVED JANUARY 14, 1857.

JAMES MACKNIGHT, PUBLIC PRINTER.

GREAT SALT LAKE CITY:

1857.

PREFACE.

THE work of preparing the following compilation of the laws of the United States, applicable to Territories, was committed to the Code Commissioners, by act of the Legislative Assembly of Utah, approved Jan. 14, 1857.

From the almost utter impossibility of becoming acquainted with that portion of the laws of the United States, applicable to this Territory, while in their present crude and complicated form, it was deemed expedient, and wisely provided by the Legislature to place within the reach of the people, such laws as would readily teach the duty and obligation of a young and flourishing Territory, to a parent government, and aid her citizens in their cherished desire to keep and sustain the law.

Much time and diligent application have been necessary to compile this work from the constantly changing, and accumulating mass of nearly seventy years' legislation, without embodying much that would be injurious to the nature thereof, nor can the public expect that the laws thus arranged, have been wholly redeemed from their obscurity and crudeness.

For convenience of reference the chronological order, numbering of chapters and sections, with the marginal notes, as arranged in Little & Brown's edition of the United States Statutes at Large have been preserved. Sections and parts of sections, when obviously irrelevant, obsolete or repealed have been omitted, which accounts for the apparent irregularity existing in that part of the work.

Great care has been taken in preparing a full and particular alphabetical index, in such a form as to render every provision of law, on any given subject, at once accessible.

The table of contents will be found to contain a complete list of all the Acts and Resolutions contained in this volume, with their date of approval, and the number of the sections omitted.

Ever solicitous for the general welfare, and the supremacy of the laws of the United States, with this brief explanation the work is respectfully submitted.

HOSEA STOUT, Chairman,	} Code	
JAS. W. CUMMINGS,		Commissioners,
SAMUEL W. RICHARDS,		

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UNITED STATES LAWS APPLICABLE TO TERRITORIES.

CHAP. XX.—*An Act to establish the Judicial Courts of the United States.*

Sept. 24, 1789.

[EXTRACTS.]

SEC. 9. *And be it further enacted,* That the district courts shall have, exclusively of the courts of the several States, cognizance of all crimes and offences that shall be cognizable under the authority of the United States, committed within their respective districts, or upon the high seas; where no other punishment than whipping, not exceeding thirty stripes, a fine not exceeding one hundred dollars, or a term of imprisonment not exceeding six months, is to be inflicted; and shall also have exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under laws of impost, navigation or trade of the United States, where the seizures are made, on waters which are navigable from the sea by vessels of ten or more tons burthen, within their respective districts as well as upon the high seas; saving to suitors, in all cases, the right of a common law remedy, where the common law is competent to give it; and shall also have exclusive original cognizance of all seizures on land, or other waters than as aforesaid, made, and of all suits for penalties and forfeitures incurred, under the laws of the United States. And shall also have cognizance, concurrent with the courts of the several States, or the circuit courts, as the case may be, of all causes where an alien sues for a tort only in violation of the law of nations or a treaty of the United States. And shall also have cognizance, concurrent as last mentioned, of all suits at com-

District courts exclusive jurisdiction.

[Acts of June 6, 1794, sec. 6; act of Feb. 13, 1807; act of March 3, 1815, sec. 4.]

Original cognizance in maritime causes and of seizures under the laws of the United States.

Concurrent jurisdiction.

Trial of fact by jury.

Circuit courts original cognizance where the matter in dispute exceeds five hundred dollars.

Exclusive cognizance of crimes and offences cognizable under the laws of the United States.

No person to be arrested in one district for trial in another on any civil suit.

Limitation as to civil suits. Actions on promissory notes.

Circuit courts shall also have appellate jurisdiction.

Matter in dispute above 500 dollars.

mon law where the United States sue, and the matter in dispute amounts, exclusive of costs, to the sum or value of one hundred dollars. And shall also have jurisdiction exclusively of the courts of the several States, of all suits against consuls or vice-consuls, except for offences above the description aforesaid. And the trial of issues in fact, in the district courts, in all causes except civil causes of admiralty and maritime jurisdiction, shall be by jury.

SEC. 11. *And be it further enacted*, That the circuit courts shall have original cognizance, concurrent with the courts of the several States, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and the United States are plaintiffs, or petitioners; or an alien is a party, or the suit is between a citizen of the State where the suit is brought, and a citizen of another State. And shall have exclusive cognizance of all crimes and offences cognizable under the authority of the United States, except where this act otherwise provides, or the laws of the United States shall otherwise direct, and concurrent jurisdiction with the district courts of the crimes and offences cognizable therein. But no person shall be arrested in one district for trial in another, in any civil action before a circuit or district court. And no civil suit shall be brought before either of said courts against an inhabitant of the United States, by any original process in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving the writ, nor shall any district or circuit court have cognizance of any suit to recover the contents of any promissory note or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents if no assignment had been made, except in cases of foreign bills of exchange. And the circuit courts shall also have appellate jurisdiction from the district courts under the regulations and restrictions herein after provided.

SEC. 12. *And be it further enacted*, That if a suit be commenced in any state court against an alien, or by a citizen of the state in which the suit is brought against a citizen of another state, and the matter in

dispute exceeds the aforesaid sum or value of five hundred dollars, exclusive of costs, to be made to appear to the satisfaction of the court; and the defendant shall, at the time of entering his appearance in such state court, file a petition for the removal of the cause for trial into the next circuit court, to be held in the district where the suit is pending, or if in the district of Maine to the district court next to be holden therein, or if in Kentucky district to the district court next to be holden therein, and offer good and sufficient surety for his entering in such court, on the first day of its session, copies of said process against him, and also for his there appearing and entering special bail in the cause, if special bail was originally requisite therein, it shall then be the duty of the state court to accept the surety, and proceed no further in the cause, and any bail that may have been originally taken shall be discharged, and the said copies being entered as aforesaid, in such court of the United States, the cause shall there proceed in the same manner as if it had been brought there by original process. And any attachment of the goods or estate of the defendant by the original process, shall hold the goods or estate so attached, to answer the final judgment in the same manner as by the laws of such State they would have been holden to answer final judgment, had it been rendered by the court in which the suit commenced. And if in any action commenced in a state court, the title of land be concerned, and the parties are citizens of the same state, and the matter in dispute exceeds the sum or value of five hundred dollars, exclusive of costs, the sum or value being made to appear to the satisfaction of the court, either party, before the trial, shall state to the court and make affidavit if they require it, that he claims and shall rely upon a right or title to the land, under a grant from a state other than that in which the suit is pending, and produce the original grant or an exemplification of it, except where the loss of public records shall put it out of his power, and shall move that the adverse party inform the court, whether he claims a right or title to the land under a grant from the state in which the suit is pending; the said adverse (party) shall give such information, or otherwise not be allowed to plead such grant, or give

Removal of causes from state courts.

Special bail.

Attachment of goods holden to final judgment.

Title of land where value exceeds 500 dollars

If in Maine and Kentucky, where causes are removable.
[Obsolete.]

Issues in fact by jury.

Supreme court exclusive jurisdiction.

Proceedings against public ministers.

Supreme Court appellate jurisdiction.

Writs of Prohibition.

Or Mandamus.

Courts may issue writs scire facias, habeas corpus, &c.

it in evidence upon the trial, and if he informs that he does claim under such grant, the party claiming under the grant first mentioned may then, on motion, remove the cause for trial to the next circuit court to be holden in such district, or if in the district of Maine, to the court next to be holden therein; or if in Kentucky district, to the district court next to be holden therein; but if he is the defendant, shall do it under the same regulations as in the before-mentioned case of the removal of a cause into such court by an alien; and neither party removing the cause, shall be allowed to plead or give evidence of any other title than that by him stated as aforesaid, as the ground of his claim; and the trial of issues in fact in the circuit courts shall, in all suits, except those of equity, and of admiralty, and maritime jurisdiction, be by jury.

SEC. 13. *And be it further enacted*, That the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a state is a party, except between a state and its citizens; and except also between a state and citizens of other states, or aliens, in which latter case it shall have original but not exclusive jurisdiction. And shall have exclusively all such jurisdiction of suits or proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, as a court of law can have or exercise consistently with the law of nations; and original, but not exclusive jurisdiction of all suits brought by ambassadors, or other public ministers, or in which a consul, or vice-consul, shall be a party. And the trial of issues in fact in the Supreme Court, in all actions at law against citizens of the United States shall be by jury. The Supreme Court shall also have appellate jurisdiction from the circuit courts and courts of the several states, in the cases herein after specially provided for; and shall have power to issue writs of prohibition to the district courts, when proceeding as courts of admiralty and maritime jurisdiction, and writs of *mandamus*, in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States.

SEC. 14. *And be it further enacted*, That all the before-mentioned courts of the United States, shall have power to issue writs of *scire facias*, *habeas corpus*,

and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law. And that either of the justices of the supreme court, as well as judges of the district courts, shall have power to grant writs of *habeas corpus* for the purpose of an inquiry in the cause of commitment.—*Provided*, That writs of *habeas corpus* shall in no case extend to prisoners in gaol, unless where they are in custody, under or by color of the authority of the United States, or are committed for trial before some court of the same, or are necessary to be brought into court to testify.

SEC. 15. *And be it further enacted*, That all the said courts of the United States, shall have power in the trial of actions at law, on motion and due notice thereof being given, to require the parties to produce books or writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might be compelled to produce the same by the ordinary rules of proceeding in chancery; and if a plaintiff shall fail to comply with such order, to produce books or writings, it shall be lawful for the courts respectively, on motion, to give the like judgment for the defendant as in cases of non-suit; and if a defendant shall fail to comply with such order, to produce books or writings, it shall be lawful for the courts respectively on motion as aforesaid, to give judgment against him or her by default.

SEC. 16. *And be it further enacted*, That suits in equity shall not be sustained in either of the courts of the United States, in any case where plain, adequate and complete remedy may be had at law.

SEC. 17. *And be it further enacted*, That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; and to make and establish all necessary rules for the orderly conducting business in the said courts, provided

Act of 1793, ch. 22; act of 1807, ch. 13; act of 1818, ch. 83; act of Feb. 1819; act of May 29, 1826, ch. 124.

Limitation of writs of *habeas corpus*.

Parties shall produce books and writings.

Suits in equity limited.

Courts may grant new trials.

Act of March 2, 1831, ch. 99.

such rules are not repugnant to the laws of the United States.

Execution may be stayed on conditions.

SEC. 18. *And be it further enacted*, That when in a circuit court, judgment upon a verdict in a civil action shall be entered, execution may on motion of either party, at the discretion of the court, and on such conditions for the security of the adverse party as they may judge proper, be stayed forty-two days from the time of entering judgment, to give time to file in the clerk's office of said court, a petition for a new trial. And if such petition be there filed within said term of forty-two days, with a certificate thereon from either of the judges of such court, that he allows the same to be filed, which certificate he may make or refuse at his discretion, execution shall of course be further stayed to the next session of said court. And if a new trial be granted, the former judgment shall be thereby rendered void.

Facts to appear on record.

Altered by act of March 3, 1803, ch. 40.

SEC. 19. *And be it further enacted*, That it shall be the duty of circuit courts, in causes in equity and of admiralty and maritime jurisdiction, to cause the facts on which they found their sentence or decree, fully to appear upon the record either from the pleadings and decree itself, or a state of the case agreed by the parties, or their counsel, or if they disagree by a stating of the case by the court.

Costs not allowed unless 500 dollars recovered.

SEC. 20. *And be it further enacted*, That where in a circuit court, a plaintiff in an action, originally brought there, or a petitioner in equity, other than the United States, recovers less than the sum or value of five hundred dollars, or a libellant, upon his own appeal, less than the sum or value of three hundred dollars, he shall not be allowed, but at the discretion of the court, may be adjudged to pay costs.

Appeals from the district to the circuit court where matter in dispute exceeds 300 dollars.

SEC. 21. *And be it further enacted*, That from final decrees in a district court in causes of admiralty and maritime jurisdiction, where the matter in dispute exceeds the sum or value of three hundred dollars, exclusive of costs, an appeal shall be allowed to the next circuit court, to be held in such district. * *

Final decrees re-examined above 50 dollars.

SEC. 22. *And be it further enacted*, That final decrees and judgments in civil actions in a district court, where the matter in dispute exceeds the sum or value of fifty dollars, exclusive of costs, may be re-exam-

ined, and reversed or affirmed in a circuit court, holden in the same district, upon a writ of error, whereto shall be annexed and returned therewith at the day and place therein mentioned, an authenticated transcript of the record, an assignment of errors, and prayer for reversal, with a citation to the adverse party, signed by the judge of such district court, or a justice of the Supreme Court, the adverse party having at least twenty days' notice. And upon a like process, may final judgments and decrees in civil actions, and suits in equity in a circuit court, brought there by original process, or removed there from courts of the several States, or removed there by appeal from a district court where the matter in dispute exceeds the sum or value of two thousand dollars, exclusive of costs, be re-examined and reversed or affirmed in the Supreme Court, the citation being in such case signed by a judge of such circuit court, or justice of the Supreme Court, and the adverse party having at least thirty days' notice. But there shall be no reversal in either court on such writ of error for error in ruling any plea in abatement, other than a plea to the jurisdiction of the court, or such plea to a petition or bill in equity, as is in the nature of a demurrer, or for any error in fact. And writs of error shall not be brought but within five years after rendering or passing the judgment or decree complained of, or in case the person entitled to such writ of error be an infant, *feme covert*, *non compos mentis*, or imprisoned, then within five years as aforesaid, exclusive of the time of such disability. And every justice or judge signing a citation on any writ of error as aforesaid, shall take good and sufficient security, that the plaintiff in error shall prosecute his writ to effect, and answer all damages and costs if he fail to make his plea good.

SEC. 23. *And be it further enacted*, That a writ of error as aforesaid shall be a supersedeas and stay execution in cases only where the writ of error is served, by a copy thereof being lodged for the adverse party in the clerk's office where the record remains, within ten days, Sundays exclusive, after rendering the judgment or passing the decree complained of. Until the expiration of which term of ten days, executions shall not issue in any case where a writ of error may be a

Altered by the
2nd sect. of the
act of March 3,
1803, ch. 40.

And suits in equity,
exceeding
2000 dollars in
value.

Writs of error
limited.

Plaintiff to give
security.
Act of Dec. 12,
1794, ch. 3.

Writ of error a
supersedeas.

supersedeas; and whereupon such writ of error the Supreme or a circuit court shall affirm a judgment or decree, they shall adjudge or decree to the respondent in error just damages for his delay, and single or double costs at their discretion.

Judgment or decree reversed.

SEC. 24. *And be it further enacted*, That when a judgment or decree shall be reversed in a circuit court, such court shall proceed to render such judgment or pass such decree as the district court should have rendered or passed; and the Supreme Court shall do the same on reversals therein, except where the reversal is in favor of the plaintiff, or petitioner in the original suit, and the damages to be assessed, or matter to be decreed are uncertain, in which case they shall remand the cause for a final decision. And the Supreme Court shall not issue execution in causes that are removed before them by writs of error, but shall send a special mandate to the circuit court to award execution thereupon.

Supreme court not to issue execution but mandate.

Cases in which judgment and decrees of the highest court of a state may be examined by the supreme court, on writ of error.

SEC. 25. *And be it further enacted*, That a final judgment or decree in any suit, in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the constitution, treaties or laws of the United States, and the decision is in favor of such their validity, or where is drawn in question the construction of any clause of the constitution, or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, privilege or exemption specially set up or claimed by either party, under such clause of the said Constitution, treaty, statute or commission, may be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed by the chief justice, or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect, as if the judgment or decree

complained of had been rendered or passed in a circuit court, and the proceeding upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision as before provided, may at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no other error shall be assigned or regarded as a ground of reversal in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before mentioned questions of validity or construction of said constitution, treaties, statutes, commissions, or authorities in dispute.

Proceedings on reversal.

No writs of error but as above mentioned.

SEC. 26. *And be it further enacted*, That in all causes brought before either of the courts of the United States to recover the forfeiture annexed to any articles of agreement, covenant, bond, or other speciality, where the forfeiture, breach or non-performance shall appear, by the default or confession of the defendant, or upon demurrer, the court before whom the action is, shall render judgment therein for the plaintiff to recover so much as is due according to equity. And when the sum for which judgment should be rendered is uncertain, the same shall, if either of the parties request it, be assessed by a jury.

In cases of forfeiture the courts may give judgment according to equity.

Jury to assess damages when the sum is uncertain.

SEC. 27. *And be it further enacted*, That a marshal shall be appointed in and for each district for the term of four years, but shall be removable from office at pleasure, whose duty it shall be to attend the district and circuit courts when sitting therein, and also the Supreme Court in the district in which that court shall sit. And to execute throughout the district, all lawful precepts directed to him, and issued under the authority of the United States, and he shall have power to command all necessary assistance in the execution of his duty, and to appoint as there shall be occasion, one or more deputies, who shall be removable from office by the judge of the district court, or the circuit court sitting within the district, at the pleasure of either; and before he enters on the duties of his office, he shall become bound for the faithful performance of the same, by himself and by his deputies before the judge of the district court to the United States, jointly and severally, with two good and sufficient sureties, inhabit-

Marshal to be appointed.
Duration of office
Act of May 15, 1823, ch. 102; 107, sec. 8.

Deputies removable by the district & circuit courts.

Sureties.

Oath of marshal,
and of his deputies.

ants and freeholders of such district, to be approved by the district judge, in the sum of twenty thousand dollars, and shall take before said judge, as shall also his deputies, before they enter on the duties of their appointment, the following oath of office: "I, A. B., do solemnly swear or affirm, that I will faithfully execute all lawful precepts directed to the marshal of the district of _____ under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the office of marshal (or marshal's deputy, as the case may be) of the district of _____, during my continuance in said office, and take only my lawful fees. So help me God."

If marshal, or his deputy, a party to a suit, process to be directed to a person selected by the court.

Deputies to continue in office on the death of the marshal.

Defaults of deputies.

Powers of the executor or administrator of deceased marshals.

Marshal's power after removal.

SEC. 23. *And be it further enacted*, That in all causes wherein the marshal or his deputy shall be a party, the writs and precepts therein shall be directed to such disinterested person as the court, or any justice or judge thereof may appoint, and the person so appointed, is hereby authorized to execute and return the same. And in case of the death of any marshal, his deputy or deputies shall continue in office, unless otherwise specially removed; and shall execute the same in the name of the deceased, until another marshal shall be appointed and sworn: And the defaults or misfeasances in office of such deputy or deputies in the mean time, as well as before, shall be adjudged a breach of the condition of the bond given, as before directed, by the marshal who appointed them; and the executor or administrator of the deceased marshal shall have like remedy for the defaults and misfeasances in office of such deputy or deputies during such interval, as they would be entitled to if the marshal had continued in life and in the exercise of his said office, until his successor was appointed, and sworn or affirmed: And every marshal or his deputy when removed from office, or when the term for which the marshal is appointed shall expire, shall have power notwithstanding to execute all such precepts as may be in their hands respectively at the time of such removal or expiration of office; and the marshal shall be held answerable for the delivery to his successor of all prisoners which may be in his custody at the time of his removal, or when the

term for which he is appointed shall expire, and for that purpose may retain such prisoners in his custody until his successor shall be appointed and qualified as the law directs.

SEC. 29. *And be it further enacted*, That in cases punishable with death, the trial shall be had in the county where the offence was committed, or where that cannot be done without great inconvenience, twelve petit jurors at least shall be summoned from thence. And jurors in all cases to serve in the courts of the United States shall be designated by lot or otherwise in each State respectively according to the mode of forming juries therein now practised, so far as the laws of the same shall render such designation practicable by the courts or marshals of the United States; and the jurors shall have the same qualifications as are requisite for jurors by the laws of the State of which they are citizens, to serve in the highest courts of law of such State, and shall be returned as there shall be occasion for them, from such parts of the district from time to time as the court shall direct, so as shall be most favourable to an impartial trial, and so as not to incur an unnecessary expense, or unduly to burthen the citizens of any part of the district with such services. And writs of *venire facias* when directed by the court shall issue from the clerk's office, and shall be served and returned by the marshal in his proper person, or by his deputy, or in case the marshal or his deputy is not an indifferent person, or is interested in the event of the cause, by such fit person as the court shall specially appoint for that purpose, to whom they shall administer an oath or affirmation that he will truly and impartially serve and return such writ. And when from challenges or otherwise there shall not be a jury to determine any civil or criminal cause, the marshal or his deputy shall, by order of the court where such defect of jurors shall happen, return jurymen *de talibus circumstantibus* sufficient to complete the pannel; and when the marshal or his deputy are disqualified as aforesaid, jurors may be returned by such disinterested person as the court shall appoint.

SEC. 30. *And be it further enacted*, That the mode of proof by oral testimony and examination of witnesses in open court shall be the same in all the courts

Trial of cases punishable with death to be had in county.

Jurors by lot.
Act of May 13,
1800, ch. 61.

Writs of *venire facias* from clerk's office.

Juries *de talibus*, &c.

Mode of proof.
Act of April 29,
1802, ch. 31, s-c.
25.

of the United States, as well in the trial of causes in equity and of admiralty and maritime jurisdiction, as of actions at common law. And when the testimony of any person shall be necessary in any civil cause depending in any district in any court of the United States, who shall live at a greater distance from the place of trial than one hundred miles, or is bound on a voyage to sea, or is about to go out of the United States, or out of such district, and to a greater distance from the place of trial than as aforesaid, before the time of trial, or is ancient or very infirm, the deposition of such person may be taken *de bene esse* before any justice or judge of any of the courts of the United States, or before any chancellor, justice or judge of a supreme or superior court, mayor or chief magistrate of a city, or judge of a county court or court of common pleas of any of the United States, not being of counsel or attorney to either of the parties, or interested in the event of the cause, provided that a notification from the magistrate before whom the deposition is to be taken to the adverse party, to be present at the taking of the same, and to put interrogatories, if he think fit, be first made out and served on the adverse party or his attorney as either may be nearest, if either is within one hundred miles of the place of such caption, allowing time for their attendance after notified, not less than at the rate of one day, Sundays exclusive, for every twenty miles travel. And in causes of admiralty and maritime jurisdiction, or other cases of seizure when a libel shall be filed, in which an adverse party is not named, and depositions of persons, circumstanced as aforesaid shall be taken before a claim be put in, the like notification as aforesaid shall be given to the person having the agency or possession of the property libelled at the time of the capture or seizure of the same, if known to the libellant. And every person deposing as aforesaid shall be carefully examined and cautioned, and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence. And the depositions so taken shall be retained by such magistrate until he

Depositions *de bene esse*.

Adverse party to be notified.

Notice in admiralty and maritime causes.

Agent notified. Depositions retained.

deliver the same with his own hand into the court for which they are taken, or shall, together with a certificate of the reasons as aforesaid of their being taken, and of the notice if any given to the adverse party, be by him the said magistrate sealed up and directed to such court, and remain under his seal until opened in court. And any person may be compelled to appear and depose as aforesaid in the same manner as to appear and testify in court. And in the trial of any cause of admiralty or maritime jurisdiction in a district court, the decree in which may be appealed from, if either party shall suggest to and satisfy the court that probably it will not be in his power to produce the witnesses there testifying before the circuit court should an appeal be had, and shall move that their testimony be taken down in writing, it shall be so done by the clerk of the court. And if an appeal be had, such testimony may be used on the trial of the same, if it shall appear to the satisfaction of the court which shall try the appeal, that the witnesses are then dead or gone out of the United States, or to a greater distance than as aforesaid from the place where the court is sitting, or that by reason of age, sickness, bodily infirmity or imprisonment, they are unable to travel and appear at court, but not otherwise. And unless the same shall be made to appear on the trial of any cause, with respect to witnesses whose depositions may have been taken therein, such depositions shall not be admitted or used in the cause. *Provided*, That nothing herein shall be construed to prevent any court of the United States from granting a *dedimus potestatem* to take depositions according to common usage, when it may be necessary to prevent a failure or delay of justice, which power they shall severally possess, nor to extend to depositions taken in *perpetuam rei memoriam*, which if they relate to matters that may be cognizable in any court of the United States, a circuit court on application thereto made as a court of equity, may, according to the usages in chancery direct to be taken.

SEC. 31. *And be it [further] enacted*, That where any suit shall be depending in any court of the United States, and either of the parties shall die before final judgment, the executor or administrator of such deceased party who was plaintiff, petitioner, or defend-

Persons may be compelled to appear and testify. Appeal allowed.

Act of March 3, 1803, ch. 40.

Depositions used in case of sickness, death, &c.

Dedimus potestatem as usual.

Executor or administrator may prosecute and defend.

ant, in case the cause of action doth by law survive, shall have full power to prosecute or defend any such suit or action until final judgment; and the defendant or defendants are hereby obliged to answer thereto accordingly; and the court before whom such cause may be depending, is hereby empowered and directed to hear and determine the same, and to render judgment for or against the executor or administrator, as the case may require. And if such executor or administrator having been duly served with a *scire facias* from the office of the clerk of the court where such suit is depending, twenty days beforehand, shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased party, in the same manner as if the executor or administrator had voluntarily made himself a party to the suit. And the executor or administrator who shall become a party as aforesaid, shall, upon motion to the court where the suit is depending, be entitled to a continuance of the same until the next term of the said court. And if there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

Neglect of executor or administrator to become a party to the suit, judgment to be rendered.

Executor and administrator may have continuance.

Two plaintiffs.

Surviving plaintiff may continue suit.

Writs shall not abate for defect of form.

Exceptions.

Courts may amend imperfections.

SEC. 32. *And be it further enacted*, That no summons, writ, declaration, return, process, judgment, or other proceedings in civil causes in any of the courts of the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form in such writ, declaration, or other pleading, return, process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from

time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any time permit either of the parties to amend any defect in the process or pleadings, upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe.

SEC. 33. *And be it further enacted*, That for any crime or offence against the United States, the offender may, by any justice or judge of the United States, or by any justice of the peace, or other magistrate of any of the United States where he may be found agreeably to the usual mode of process against offenders in such state, and at the expense of the United States, be arrested, and imprisoned or bailed, as the case may be, for trial before such court of the United States as by this act has cognizance of the offence. And copies of the process shall be returned as speedily as may be into the clerk's office of such court, together with the recognizances of the witnesses for their appearance to testify in the case; which recognizances the magistrate before whom the examination shall be, may require on pain of imprisonment. And if such commitment of the offender, or the witnesses shall be in a district other than that in which the offence is to be tried, it shall be the duty of the judge of that district where the delinquent is imprisoned, seasonably to issue, and of the marshal of the same district to execute, a warrant for the removal of the offender, and the witnesses, or either of them, as the case may be, to the district in which the trial is to be had. And upon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death, in which cases it shall not be admitted but by the supreme or a circuit court, or by a justice of the supreme court, or a judge of a district court, who shall exercise their discretion therein, regarding the nature and circumstances of the offence, and of the evidence, and the usages of law. And if a person committed by a justice of the supreme or a judge of a district court for an offence not punishable with death, shall afterwards procure bail, and there be no judge of the United States in the district to take the same, it may be taken by any judge of the supreme or superior court of law of such state.

Criminals against U. S. arrested by any justice of the peace.

Act of March 2, 1793, ch. 22.

Act of July 16, 1793, ch. 83.

Recognizance to be returned to the clerk's office.

Offender may be removed by warrant.

Bail admitted.

Bail, how taken.

Laws of States
rules of decision.

SEC. 34. *And be it further enacted*, That the laws of the several states, except where the constitution, treaties or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in the courts of the United States in cases where they apply.

Parties may man-
age their own
cause.

SEC. 35. *And be it further enacted*, That in all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of such counsel or attorneys at law as by the rules of the said courts respectively shall be permitted to manage and conduct causes therein. And there shall be appointed in each district a meet person learned in the law to act as attorney for the United States in such district, who shall be sworn or affirmed to the faithful execution of his office, whose duty it shall be to prosecute in such district all delinquents for crimes and offences, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned, except before the supreme court in the district in which that court shall be holden. And he shall receive as a compensation for his services such fees as shall be taxed therefor in the respective courts before which the suits or prosecutions shall be. And there shall also be appointed a meet person, learned in the law, to act as attorney-general for the United States, who shall be sworn or affirmed to a faithful execution of his office; whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments, and shall receive such compensation for his services as shall by law be provided.

Attorney of the
U. S. for each
district.

His duties.

Compensation.

Attorney General
of the U. S.

Duties.

Act of May 23,
1830, ch. 153.

Compensation.

APPROVED, September 24, 1789.

CHAP. XXI.—*An act to regula'e Processes in the Courts of the United States.* Sept. 29, 1789.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all writs and processes issuing from a supreme or a circuit court shall bear test of the chief justice of the supreme court, and if from a district court, shall bear test of the judge of such court, and shall be under the seal of the court from whence they issue; and signed by the clerk thereof. The seals of the supreme and circuit courts to be provided by the supreme court, and of the district courts, by the respective judges of the same.

1790, ch. 13.
1791, ch. 8.
Writs to bear test of the Chief Justice.

To be under the seal of the Court from which they issue.

SEC. 2. *And be it further enacted,* That until further provision shall be made, and except where by this act or other statutes of the United States is otherwise provided, the forms of writs and executions, except their style, and modes of process and rates of fees, except fees to judges, in the circuit and district courts, in suits at common law, shall be the same in each state respectively as are now used or allowed in the supreme courts of the same. And the forms and modes of proceedings in causes of equity, and of admiralty and maritime jurisdiction, shall be according to the course of the civil law; and the rates of fees the same as are or were last allowed by the states respectively in the court exercising supreme jurisdiction in such causes. *Provided,* That on judgments in any of the cases aforesaid where different kinds of executions are issuable in succession, a *capias ad satisfaciendum* being one, the plaintiff shall have his election to take out a *capias ad satisfaciendum* in the first instance and be at liberty to pursue the same until a tender of the debt and costs in gold or silver shall be made.

1792, ch. 26.
1828, ch. 68.

Forms of writs and executions to be the same as used in the Supreme Courts of the States.

Fees to be the same as in the Supreme Courts of the States.

APPROVED, September 29, 1789.

CHAP. IX.—*An Act for the Punishment of certain Crimes against the United States.* April 30, 1790.

[EXTRACTS.]

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if any person or persons, owing allegiance to the United States of America, shall levy

Act of April 2,
1792, ch. 16, sec.
19. Act of May
27, 1796, ch. 36,
sec. 7. Jan. 30,
1799, ch. 1.

Act of April 24,
1800, ch. 75.
Act of March 26,
1804, ch. 40.
Act of March 3,
1825, ch. 65.
What cases shall
be adjudged trea-
son.
How proved and
punished.

war against them, or shall adhere to their enemies, giving them aid and comfort within the United States or elsewhere, and shall be thereof convicted, on confession in open court, or on the testimony of two witnesses to the same overt act of the treason whereof he or they shall stand indicted, such person or persons shall be adjudged guilty of treason against the United States, and shall suffer death.

SEC. 2. *And be it [further] enacted*, That if any person or persons, having knowledge of the commission of any of the treasons aforesaid, shall conceal and not as soon as may be disclose and make known the same to the President of the United States, or some one of the judges thereof, or to the president or governor of a particular state, or some one of the judges or justices thereof, such person or persons on conviction shall be adjudged guilty of misprision of treason, and shall be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

Misprision of
treason.

Murder in a fort
or arsenal, under
the exclusive jur-
isdiction of the U.
S. to be punished
with death.

SEC. 3. *And be it [further] enacted*, That if any person or persons shall, within any fort, arsenal, dockyard, magazine, or in any other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of wilful murder, such person or persons on being thereof convicted shall suffer death.

Act of March 3,
1825, ch. 65, sec.
4.

And court may or-
der offender's
body to be dissect-
ed.

SEC. 4. *And be it also enacted*, That the court before whom any person shall be convicted of the crime of murder, for which he or she shall be sentenced to suffer death, may at their discretion, add to the judgment, that the body of such offender shall be delivered to a surgeon for dissection; and the marshal who is to cause such sentence to be executed, shall accordingly deliver the body of such offender, after execution done, to such surgeon as the court shall direct, for the purpose aforesaid: *Provided*, That such surgeon, or some other person by him appointed for the purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

Rescue of a body
ordered for dissec-
tion, punishment
for.

SEC. 5. *And be it further enacted*, That if any person or persons shall, after such execution had, by force rescue or attempt to rescue the body of such offender out of the custody of the marshal or his officers, during the conveyance of such body to any place for dis-

section as aforesaid; or shall by force rescue or attempt to rescue such body from the house of any surgeon, where the same shall have been deposited in pursuance of this act; every person so offending, shall be liable to a fine not exceeding one hundred dollars, and an imprisonment not exceeding twelve months.

SEC. 6. *And be it [further] enacted*, That if any person or persons having knowledge of the actual commission of the crime of wilful murder or other felony, upon the high seas, or within any fort, arsenal, dockyard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, shall conceal, and not as soon as may be disclose and make known the same to some one of the judges or other persons in civil or military authority under the United States, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall be imprisoned not exceeding three years, and fined not exceeding five hundred dollars.

Misprision of felony, what cases shall be judged, and how punished.

SEC. 7. *And be it [further] enacted*, That if any person or persons shall within any fort, arsenal, dockyard, magazine, or other place or district of country, under the sole and exclusive jurisdiction of the United States, commit the crime of manslaughter, and shall be thereof convicted, such person or persons shall be imprisoned not exceeding three years, and fined not exceeding one thousand dollars.

Manslaughter in a fort, arsenal, &c. how punished.
Act of March 3, 1825, ch. 65, sec. 4, 6, 7.

SEC. 13. *And be it [further] enacted*, That if any person or persons, within any of the places upon the land under the sole and exclusive jurisdiction of the United States, or upon the high seas, in any vessel belonging to the United States, or to any citizen or citizens thereof, on purpose and of malice aforethought, shall unlawfully cut off the ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person in any the manners before mentioned, then and in every such case the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offence aforesaid) shall on conviction, be imprisoned not exceeding seven years, and fined not exceeding one thousand dollars.

Maiming, what cases shall be judged, and how punished.
Act of March 3, 1825, ch. 65, sec. 22.

Stealing or falsifying any record, process, &c. how punished.

SEC. 15. *And be it [further] enacted*, That if any person shall feloniously steal, take away, alter, falsify, or otherwise avoid any record, writ, process, or other proceedings in any of the courts of the United States, by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge or procure to be acknowledged in any of the courts aforesaid, any recognizance, bail or judgment, in the name or names of any other person or persons not privy or consenting to the same, every such person or persons on conviction thereof, shall be fined not exceeding five thousand dollars, or be imprisoned not exceeding seven years, and whipped not exceeding thirty nine stripes. *Provided nevertheless*, That this act shall not extend to the acknowledgment of any judgment or judgments by any attorney or attorneys, duly admitted for any person or persons against whom any such judgment or judgments shall be had or given.

Exceptions.

Larceny, what cases shall be judged, and how punished.

SEC. 16. *And be it [further] enacted*, That if any person within any of the places under the sole and exclusive jurisdiction of the United States, or upon the high seas, shall take and carry away, with an intent to steal or purloin the personal goods of another; or if any person or persons, having at any time hereafter the charge or custody of any arms, ordnance, munition, shot, powder, or habiliments of war belonging to the United States, or of any victuals provided for the victualing of any soldiers, gunners, marines or pioneers, shall for any lucre or gain, or wittingly, advisedly, and of purpose to hinder or impede the service of the United States; embezzle, purloin or convey away any of the said arms, ordnance, munition, shot or powder, habiliments of war, or victuals, that then and in every of the cases aforesaid, the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offences aforesaid) shall, on conviction, be fined not exceeding the fourfold value of the property so stolen, embezzled or purloined; the one moiety to be paid to the owner of the goods, or the United States, as the case may be, and the other moiety to the informer and prosecutor, and be publicly whipped, not exceeding thirty nine stripes.

Act of March 3, 1825, ch. 65.

1842, ch. 188, sec. 4.

Receivers of stolen goods, &c. how punished.

SEC. 17. *And be it further enacted*, That if any person or persons, within any part of the jurisdiction of

the United States as aforesaid, shall receive or buy any goods or chattles that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall receive, harbour or conceal any felons or thieves, knowing them to be so, he or they being of either of the said offences legally convicted, shall be liable to the like punishments as in the case of larceny before are prescribed.

SEC. 18. *And be it [further] enacted*, That if any person shall wilfully and corruptly commit perjury, or shall by any means procure any person to commit corrupt and wilful perjury, on his or her oath or affirmation in any suit, controversy, matter or cause depending in any of the courts of the United States, or in any deposition taken pursuant to the laws of the United States, every person so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding eight hundred dollars; and shall stand in the pillory for one hour, and be thereafter rendered incapable of giving testimony in any of the courts of the United States, until such time as the judgment so given against the said offender shall be reversed.

SEC. 19. *And be it [further] enacted*, That in every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken, (averring such court, or person or persons to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed.

SEC. 20. *And be it further enacted*, That in every presentment or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer,

Act of March 3,
1825, ch. 65.

Perjury how punished.

In prosecutions for perjury, it shall be sufficient to set forth substance of the charge.

Proceedings for subornation of perjury.

information, indictment, declaration, or any part of any record or proceeding, either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed.

Bribery, what cases shall be judged, and how punished.

SEC. 21. *And be it [further] enacted*, That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present or reward, or any promise, contract, obligation or security, for the payment or delivery of any money, present or reward, or any other thing to obtain or procure the opinion, judgment or decree of any judge or judges of the United States, in any suit, controversy, matter or cause depending before him or them, and shall be thereof convicted, such person or persons so giving, promising, contracting or securing to be given, paid or delivered, any sum or sums of money, present, reward or other bribe as aforesaid, and the judge or judges who shall in any wise accept or receive the same, on conviction thereof shall be fined and imprisoned at the discretion of the court; and shall forever be disqualified to hold any office of honour, trust or profit under the United States.

Obstructions of process, how punished.

SEC. 22. *And be it [further] enacted*, That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any officer of the United States, in serving or attempting to serve or execute any mesne process, or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer, or other person duly authorized, in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars.

Rescue of persons convicted, or before conviction to be punished by death.

SEC. 23. *And be it further enacted*, That if any person or persons shall by force set at liberty, or rescue any person who shall be found guilty of treason, murder, or any other capital crime, or rescue any person convicted of any of the said crimes, going to execution, or during execution, every person so offending, and being thereof convicted, shall suffer death. And

if any person shall by force set at liberty, or rescue any person who before conviction shall stand committed for any of the capital offences aforesaid; or if any person or persons shall by force set at liberty, or rescue any person committed for or convicted of any other offence against the United States, every person so offending shall, on conviction, be fined not exceeding five hundred dollars, and imprisoned not exceeding one year.

Rescue before conviction.

SEC. 24. *Provided always, and be it enacted*, That no conviction or judgment for any of the offences aforesaid, shall work corruption of blood, or any forfeiture of estate.

No conviction to work corruption of blood, or forfeiture of estate.

SEC. 25. *And be it [further] enacted*, That if any writ or process shall at any time hereafter be sued forth or prosecuted by any person or persons, in any of the courts of the United States, or in any of the courts of a particular state, or by any judge or justice therein respectively, whereby the person of any ambassador or other public minister of any foreign prince or state, authorized and received as such by the President of the United States, or any domestic or domestic servant of any such ambassador or other public minister, may be arrested or imprisoned, or his or their goods or chattels be distrained, seized or attached, such writ or process shall be deemed and adjudged to be utterly null and void to all intents, construction and purposes whatsoever.

Article 3, Sec. 2, Constitution U. States.

Process sued in any Court of the U. States, or of a particular state, against a foreign minister, void; and

SEC. 26. *And be it [further] enacted*, That in case any person or persons shall sue forth or prosecute any such writ or process, such person or persons, and all attorneys or solicitors prosecuting or soliciting in such case, and all officers executing any such writ or process, being thereof convicted, shall be deemed violators of the laws of nations, and disturbers of the public repose, and imprisoned not exceeding three years, and fined at the discretion of the court.

Persons suing the same, how punished:

SEC. 27. *Provided nevertheless*, That no citizen or inhabitant of the United States, who shall have contracted debts prior to his entering into the service of any ambassador or other public minister, which debts shall be still due and unpaid, shall have, take or receive any benefit of this act; nor shall any person be proceeded against by virtue of this act, for having ar-

Exception as to debts contracted prior to entering into the service of ambassador, &c.

rested or sued any other domestic servant of any ambassador or other public minister; unless the name of such servant be first registered in the office of the Secretary of State, and by such secretary transmitted to the marshal of the district in which Congress shall reside, who shall upon receipt thereof affix the same in some public place in his office, whereto all persons may resort and take copies without fee or reward.

Violation of a safe conduct, or to the person of public minister, how punished.

SEC. 28. *And be it [further] enacted*, That if any person shall violate any safe-conduct or passport duly obtained and issued under the authority of the United States, or shall assault, strike, wound, imprison, or in any other manner infract the law of nations, by offering violence to the person of an ambassador or other public minister, such person so offending, on conviction, shall be imprisoned not exceeding three years, and fined at the discretion of the court.

In cases of treason, prisoner shall have copy of indictment, list of the jury and witnesses, &c.

SEC. 29. *And be it [further] enacted*, That any person who shall be accused and indicted of treason, shall have a copy of the indictment, and a list of the jury and witnesses, to be produced on the trial for proving the said indictment, mentioning the names and places of abode of such witnesses and jurors, delivered unto him at least three entire days before he shall be tried for the same; and in other capital offences, shall have such copy of the indictment and list of the jury two entire days at least before the trial: And that every person so accused and indicted for any of the crimes aforesaid, shall also be allowed and admitted to make his full defence by counsel learned in the law; and the court before whom such person shall be tried, or some judge thereof, shall, and they are hereby authorized and required immediately upon his request to assign to such person such counsel, not exceeding two, as such person shall desire, to whom such counsel shall have free access at all seasonable hours; and every such person or persons accused or indicted of the crimes aforesaid, shall be allowed and admitted in his said defence to make any proof that he or they can produce, by lawful witness or witnesses, and shall have the like process of the court where he or they shall be tried, to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them.

In other capital cases, copy of indictment and list of the jury; also to be allowed counsel.

And with process to compel the attendance of witnesses.

SEC. 30. *And be it further enacted*, That if any person or persons be indicted of treason against the United States, and shall stand mute or refuse to plead, or shall challenge peremptorily above the number of thirty-five of the jury; or if any person or persons be indicted of any other of the offences herein before set forth, for which the punishment is declared to be death, if he or they shall also stand mute or will not answer to the indictment, or challenge peremptorily above the number of twenty persons of the jury; the court, in any of the cases aforesaid, shall notwithstanding proceed to the trial of the person or persons so standing mute or challenging, as if he or they had pleaded not guilty, and render judgment thereon accordingly.

In cases of treason or other capital offence, prisoner standing mute, how to be proceeded against.
Act of March 3, 1825, ch. 65, sec. 14.

SEC. 31. *And be it further enacted*, That the benefit of clergy shall not be used or allowed, upon conviction of any crime, for which, by any statute of the United States, the punishment is or shall be declared to be death.

No benefit of clergy in cases where the punishment is death.

SEC. 32. *And be it further enacted*, That no person or persons shall be prosecuted, tried or punished for treason or other capital offence aforesaid, wilful murder or forgery excepted, unless the indictment for the same shall be found by a grand jury within three years next after the treason or capital offence aforesaid shall be done or committed; nor shall any person be prosecuted, tried or punished for any offence, not capital, nor for any fine or forfeiture under any penal statute, unless the indictment or information for the same shall be found or instituted within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid: *Provided*, That nothing herein contained shall extend to any person or persons fleeing from justice.

No prosecution or punishment for treason or other capital offence unless indictment be found within three years, nor in other cases unless within two years; except the offender flee.

SEC. 33. *And be it further enacted*, That the manner of inflicting the punishment of death, shall be by hanging the person convicted by the neck until dead.

Punishment of death to be by hanging.

APPROVED, April 30, 1790.

May 26, 1790.

Act of March 27,
1804. ch. 59.
Legislative acts,
records and judi-
cial proceedings
of the several
states how to be
authenticated;

and the effect
thereof.

CHAP. XI.—*An Act to prescribe the mode in which the public Acts, Records, and judicial Proceedings in each State, shall be authenticated so as to take effect in every other State.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the acts of the legislatures of the several states shall be authenticated by having the seal of their respective states affixed thereto: That the records and judicial proceedings of the courts of any state, shall be proved or admitted in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, as the case may be, that the said attestation is in due form. And the said records and judicial proceedings authenticated as aforesaid, shall have such faith and credit given to them in every court within the United States, as they have by law or usage in the courts of the state from whence the said records are or shall be taken.

APPROVED, May 26, 1790.

May 8, 1792.

CHAP. XXXIII.—*An Act more effectually to provide for the National Defence by establishing an Uniform Militia throughout the United States.*

[EXTRACTS.]

Militia how and
by whom to be
enrolled.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That each and every free able bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years (except as is herein after excepted) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such captain or commanding officer of a company to enrol every such citizen, as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years and under the age of forty-five years (except as before excepted) shall come to reside within his bounds; and shall without delay notify such

citizen of the said enrolment; by a proper non-commissioned officer of the company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball: or with a good rifle, knapsack, shot-pouch and powder-horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear, so armed, accoutred and provided, when called out to exercise, or into service, except, that when called out on company days to exercise only; he may appear without a knapsack. That the commissioned officers shall severally be armed with a sword or hanger and esponton, and that from and after five years from the passing of this act, all muskets for arming the militia as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or for the payment of taxes.

How to be armed
and accoutred.

1803, ch. 15.

SEC. 2. *And be it further enacted*, That the Vice President of the United States; the officers judicial and executive of the government of the United States; the members of both Houses of Congress, and their respective officers; all custom-house officers with their clerks; all post-officers, and stage drivers, who are employed in the care and conveyance of the mail of the post-office of the United States; all ferrymen employed at any ferry on the post road; all inspectors of exports; all pilots; all mariners actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are or may hereafter be exempted by the laws of the respective states, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

Executive officers,
&c. exempted.

1810, ch. 37, sec.
33.

SEC. 3. - *And be it further enacted*, That within one year after the passing of this act, the militia of the

Militia how to be
arranged, and

respective states shall be arranged into divisions, brigades, regiments, battalions and companies, as the legislature of each state shall direct; and each division, brigade and regiment, shall be numbered at the formation thereof; and a record made of such numbers in the adjutant-general's office in the state; and when in the field, or in service in the state, each division, brigade and regiment shall respectively take rank according to their numbers, reckoning the first or lowest number highest in rank. That if the same be convenient, each brigade shall consist of four regiments; each regiment of two battalions; each battalion of five companies; each company of sixty-four privates. That the said militia shall be officered by the respective states, as follows: To each division, one major-general and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with one brigade inspector, to serve also as brigade-major, with the rank of a major; to each regiment, one lieutenant-colonel commandant; and to each battalion one major; to each company one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one flier or bugler. That there shall be a regimental staff, to consist of one adjutant and one quartermaster, to rank as lieutenant; one paymaster; one surgeon, and one surgeon's mate; one sergeant-major, one drum-major, and one fife-major.

by whom officered.

1893, ch. 15, sec. 3.

Each battalion to have one company of grenadiers, &c. and one company of artillery.

Officers how to be armed.

Troops of horse how officered, &c.

SEC. 4. *And be it further enacted*, That out of the militia enrolled, as is herein directed, there shall be formed for each battalion at least one company of grenadiers, light infantry or riflemen; and that to each division there shall be at least one company of artillery, and one troop of horse: there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombadiers, one drummer, and one flier. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge-box to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The com-

missioned officers to furnish themselves with good horses of at least fourteen hands and an half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mailpillion and valise, holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch-box, to contain twelve cartridges for pistols. That each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander-in-chief of the state, not exceeding one company of each to a regiment, nor more in number than one eleventh-part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

Artillery and horse of whom to be formed; to be uniformly clad at their own expense.
1803, ch. 15.

SEC. 5. *And be it further enacted*, That each battalion and regiment shall be provided with the state and regimental colours by the field officers, and each company with a drum and fife, or bugle-horn, by the commissioned officers of the company, in such manner as the legislature of the respective states shall direct.

What colours &c. and by whom to be furnished.

SEC. 6. *And be it further enacted*, That there shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander-in-chief of the state to the several corps; to attend all public reviews when the commander-in-chief of the state shall review the militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammunition, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: all which the several officers of the divisions, brigades, regiments, and battalions, are hereby re-

Adjutant-general in each state, his duty.

1803, ch. 15.

quired to make in the usual manner, so that the said adjutant-general may be duly furnished therewith: from all which returns he shall make proper abstracts, and lay the same annually before the commander-in-chief of the state.

Officers how to
take rank.

SEC. 8. *And be it further enacted*, That all commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company, or detachment.

Provision in case
of wounds, &c.

SEC. 9. *And be it further enacted*, That if any person, whether officer or soldier, belonging to the militia of any state, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.

Brigade Inspec-
tor's duty.

SEC. 10. *And be it further enacted*, That it shall be the duty of the brigade-inspector to attend the regimental and battalion meetings of the militia composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition, and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline before described throughout the brigade, agreeable to law, and such orders as they shall from time to time receive from the commander-in-chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements, and ammunition of the several corps, and every other thing which, in his judgment, may relate to their government and the general advancement of good order and military discipline; and the adjutant-general shall make a return of all the militia of the state to the commander-in-chief of the said state, and a duplicate of the same to the President of the United States.

1803, ch. 15.

APPROVED, May 3, 1792.

CHAP. XXXVI.—*An Act for regulating Processes in the Courts of the United States, and providing Compensations for the Officers of the said Courts, and for Jurors and Witnesses.*

May 8, 1792.

[EXTRACTS.]

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all writs and processes issuing from the supreme or a circuit court, shall bear test of the chief justice of the supreme court (or if that office shall be vacant) of the associate justice next in precedence; and all writs and processes issuing from a district court, shall bear test of the judge of such court (or if that office shall be vacant) of the clerk thereof, which said writs and processes shall be under the seal of the court from whence they issue, and signed by the clerk thereof. The seals shall be provided at the expense of the United States.

Writs by whom
and how a tested;

and seals provided.

SEC. 2. *And be it further enacted,* That the forms of writs, executions and other process, except their style and the forms and modes of proceeding in suits in those of common law shall be the same as are now used in the said courts respectively in pursuance of the act, entitled "An act to regulate processes in the courts of the United States," in those of equity and in those of admiralty and maritime jurisdiction, according to the principles, rules and usages which belong to courts of equity and to courts of admiralty respectively, as contradistinguished from courts of common law; except so far as may have been provided for by the act to establish the judicial courts of the United States, subject however to such alterations and additions as the said courts respectively shall in their discretion deem expedient, or to such regulations as the supreme court of the United States shall think proper from time to time by rule to prescribe to any circuit or district court concerning the same: *Provided,* That on judgments in any of the cases aforesaid where different kinds of executions are issuable in succession, a *capias* or *satisfaciendum* being one, the plaintiff shall have his election to take out a *capias* or *satisfaciendum* in the first instance.

Forms of writs.

1793, ch. 21.

When plaintiff
may take out a
capias or *satisfaciendum*
in first
instance.

SEC. 9. *And be it further enacted,* That it shall be the duty of the clerk of the supreme court of the United States, forthwith to transmit to the clerks of

Clerk of supreme
court to transmit
to clerks of cir-
cuit courts the

form of a writ
of error.

1789, ch. 20.

When clerks may
take recognizances
de bene esse; and
affidavits of sur-
veyors, &c.

the several circuit courts the form of a writ of error, to be approved by any two of the judges of the supreme court, and it shall be lawful for the clerks of the said circuit courts to issue writs of error agreeably to such forms, as nearly as the case may admit, under the seal of the said circuit courts, returnable to the supreme court, in the same manner as the clerk of the supreme court may issue such writs, in pursuance of the act, entitled "An act to establish the judicial courts of the United States."

SEC. 10. *And be it further enacted*, That it shall and may be lawful for the clerks of the district and circuit courts, in the absence or in case of the disability of the judges, to take recognizances of special bail, *de bene esse*, in any action depending in either of the said courts, and also the affidavits of all surveyors relative to their reports, and to administer oaths to all persons identifying papers found on board of vessels or elsewhere, to be used on trials in admiralty causes.

APPROVED, May 8, 1792.

Feb. 12, 1793.

CHAP. VII.—*An Act respecting fugitives from justice, and persons escaping from the service of their masters.*

Fugitives from
justice how to be
apprehended and
secured.

Copy of indictment,
or affidavit
charging the com-
mission of the
crime to be pro-
duced.

Notice of the ar-
rest to be given
to the executive
authority making
the demand.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the executive authority of any state in the Union, or of either of the territories north-west or south of the river Ohio, shall demand any person as a fugitive from justice, of the executive authority of any such state or territory to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, it shall be the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugi-

tive, and to cause the fugitive to be delivered to such agent when he shall appear: But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

Fugitive to be delivered to the agent of the executive, or if no agent appointed within six months, to be discharged. Expenses of apprehending.

SEC. 2. *And be it further enacted,* That any agent, appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the state or territory from which he or she shall have fled. And if any person or persons shall by force set at liberty, or rescue the fugitive from such agent while transporting, as aforesaid, the person or persons so offending shall, on conviction, be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

Agent to transport the fugitive.

Penalty on persons rescuing fugitive.

SEC. 3. *And be it also enacted,* That when a person held to labour in any of the United States, or in either of the territories on the north west or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labour or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labour, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labour to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labour, to the state or territory from which he or she fled.

Proceedings to be had on escape of persons held to labour.

May be arrested on proof as required, and may be removed to the place from whence he fled.

SEC. 4. *And be it further enacted,* That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney in so seizing or

Penalty on obstructing claimants of fugitives from labour.

arresting such fugitive from labour, or shall rescue such fugitive from such claimant, his agent or attorney when so arrested pursuant to the authority herein given or declared; or shall harbor or conceal such person after notice that he or she was a fugitive from labour, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claiming such labour or service, his right of action for or on account of the said injuries or either of them.

APPROVED, February 12, 1793.

March 2, 1793.

CHAP. XXII.—*An Act in addition to the Act, entitled "An Act to establish the Judicial Courts of the United States."*

Attendance of one supreme judge at a circuit court deemed sufficient, except in certain cases.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the attendance of only one of the justices of the supreme court, at the several circuit courts of the United States, to be hereafter held, shall be sufficient, any law requiring the attendance of two of the said justices notwithstanding: *Provided,* That it shall be lawful for the supreme court, in cases where special circumstances shall, in their judgment, render the same necessary, to assign two of the said justices to attend the circuit court or courts, and it shall be the duty of the justices so assigned, to attend accordingly. *And provided also,* That when only one judge of the supreme court shall attend any circuit court and the district judge shall be absent, or shall have been of counsel, or be concerned in interest in any cause, then pending, such circuit court may consist of the said judge of the supreme court alone.

1793, ch. 20.

1802, ch. 31.

Rule for giving judgment in circuit courts in certain cases.

SEC. 2. *And be it further enacted,* That if at any time only one judge of the supreme court, and the judge of the district shall sit in a circuit court, and upon a final hearing of a cause, or of a plea to the jurisdiction of the court, they shall be divided in opinion, it shall be continued to the succeeding court; and if upon the second hearing when a different judge of the supreme court shall be present, a like decision shall take place, the district judge adhering to his former

opinion, judgment shall be rendered in conformity to the opinion of the presiding judge.

SEC. 3. *And be it further enacted*, That the supreme court, or when the supreme court shall not be sitting, any one of the justices thereof together with the judge of the district within which a special session as hereafter authorized shall be holden, may direct special sessions of the circuit courts to be holden for the trial of criminal causes, at any convenient place within the district, nearer to the place where the offences may be said to be committed, than the place or places, appointed by law for the ordinary sessions: That the clerk of such circuit court shall, at least thirty days before the commencement of such special session, cause the time and place for holding the same, to be notified for at least three weeks successively, in one or more of the newspapers published nearest to the place where the session is to be holden: That all process, writs and recognizances of every kind, whether respecting juries, witnesses, bail or otherwise, which relate to the cases to be tried at the said special sessions, shall be considered as belonging to such sessions, in the same manner as if they had been issued or taken in reference thereto: That any special session may be adjourned to any time or times previous to the next stated meeting of the circuit court: That all business depending for trial at any special court, shall at the close thereof be considered as of course removed to the next stated term of the circuit court: And that the district courts of Maine and Kentucky, shall have like power to hold special sessions for the trial of criminal causes, as hath been heretofore given, or is hereby given to the circuit courts, subject to the like regulations and restrictions.

SEC. 4. *And be it further enacted*, That bail for appearance in any court of the United States, in any criminal cause in which bail is by law allowed, may be taken by any judge of the United States, any chancellor, judge of a supreme or superior court, or chief or first judge of a court of common pleas of any state, or mayor of a city in either of them, and by any person having authority from a circuit court, or the district courts of Maine or Kentucky to take bail; which authority, revocable at the discretion of such court, any circuit court or either of the district courts of Maine

Judges of supreme court may direct special sessions of circuit courts for trial of criminal causes.

Duty of clerk in such cases.

Such sessions may be adjourned.

Privilege granted to district courts of Maine and Kentucky.

Bail for appearance by whom taken.

or Kentucky, may give to one or more discreet persons learned in the law in any district for which such court is holden, where, from the extent of the district, and remoteness of its parts from the usual residence of any of the before named officers, such provisions shall, in the opinion of the court, be necessary.—*Provided*, That nothing herein shall be construed to extend to taking bail in any case where the punishment for the offence may be death; nor to abridge any power heretofore given by the laws of the United States, to any description of persons to take bail.

Writs of ne exeat
by whom and
when granted.

SEC. 5. *And be it further enacted*, That writs of ne exeat and of injunction may be granted by any judge of the supreme court in cases where they might be granted by the supreme or circuit court; but no writ of ne exeat shall be granted unless a suit in equity be commenced, and satisfactory proof shall be made to the court or judge granting the same, that the defendant designs quickly to depart from the United States: nor shall a writ of injunction be granted to stay proceedings in any court of a state; nor shall such writ be granted in any case without reasonable previous notice to the adverse party, or his attorney, of the time and place of moving for the same.

Subpœnas for wit-
nesses how far to
extend.

SEC. 6. *And be it further enacted*, That subpœnas for witnesses who may be required to attend a court of the United States, in any district thereof, may run into any other district: *Provided*, That in civil causes, the witnesses living out of the district in which the court is holden, do not live at a greater distance than one hundred miles from the place of holding the same.

Courts to make
rules for return-
ing writs, &c.

SEC. 7. *And be it further enacted*, That it shall be lawful for the several courts of the United States, from time to time, as occasion may require, to make rules and orders for their respective courts directing the returning of writs and processes, the filing of declarations and other pleadings, the taking of rules, the entering and making up judgments by default, and other matters in the vacation and otherwise in a manner not repugnant to the laws of the United States, to regulate the practice of the said courts respectively, as shall be fit and necessary for the advancement of justice, and especially to that end to prevent delays in proceedings.

SEC. 8. *And be it further enacted*, That where it is now required by the laws of any state, that goods taken in execution on a writ of fieri facias, shall be appraised, previous to the sale thereof, it shall be lawful for the appraisers appointed under the authority of the state, to appraise goods taken in execution, on a fieri facias issued out of any court of the United States, in the same manner as if such writ had issued out of a court held under the authority of the state; and it shall be the duty of the marshal, in whose custody such goods may be, to summon the appraisers, in like manner, as the sheriff is by the laws of the state required to summon them; and the appraisers shall be entitled to the like fees, as in cases of appraisements under the laws of the state; and if the appraisers, being duly summoned, shall fail to attend and perform the duties required of them, the marshal may proceed to sell such goods, without an appraisement.

APPROVED, March 2, 1793.

Goods taken on writ of fieri facias how to be appraised.

CHAP. XXXII.—*An Act further to authorize the Adjournment of Circuit Courts.*

May 19, 1794.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a circuit court in any district, when it shall happen that no justice of the supreme court attends within four days after the time appointed by law for the commencement of the session, may be adjourned to the next stated term by the judge of the district, or in case of his absence also, by the marshal of the district.

Act of Sept. 24, 1789, ch. 20.

When circuit court may be adjourned by district judge or marshal.

APPROVED, May 19, 1794.

CHAP. III.—*An Act to amend and explain the twenty-second section of "the act establishing the Judicial Courts of the United States."*

Dec. 12, 1794.

WHEREAS by the twenty-second section of the act entitled "An act to establish the Judicial Courts of the United States," it is provided that "Every justice or judge signing a citation on any writ of error, shall take good and sufficient security that the plaintiff in error shall prosecute his writ to effect, and answer all damages and costs, if he fail to make his plea good." And

Act of Sept. 24, 1789, ch. 20.

whereas doubts have arisen as to the extent of the security to be required in certain cases:—

Security to be taken on signing citation on writ of error, &c.

Be it enacted and declared by the Senate and House of Representatives of the United States of America in Congress assembled, That the security to be required and taken on the signing of a citation on any writ of error, which shall not be a supersedeas and stay execution; shall be only to such an amount, as in the opinion of the justice or judge taking the same, shall be sufficient to answer all such costs as, upon an affirmance of the judgment or decree, may be adjudged or decreed to the respondent in error.

APPROVED, December 12, 1794.

Feb. 28, 1795.
1813, ch. 18.

CHAP. XXXVI.—*An Act to provide for calling forth the Militia to execute the laws of the Union, suppress insurrections, and repel invasions; and to repeal the Act now in force for those purposes.*

[EXTRACTS.]

In case of invasion President may issue orders to militia officers.

1814, ch. 82.

In case of insurrection in a state President may when applied to by the state legislature, &c. call out the militia of other states.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the state, or states, most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose, to such officer or officers of the militia, as he shall think proper. And in case of an insurrection in any state, against the government thereof, it shall be lawful for the President of the United States, on application of the legislature of such state, or of the executive, (when the legislature cannot be convened,) to call forth such number of the militia of any other state or states, as may be applied for, as he may judge sufficient to suppress such insurrection.*

President to call out the militia to suppress combinations against the laws of the United States.

SEC. 2. *And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any state, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for*

the President of the United States, to call forth the militia of such state, or of any other state or states, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

SEC. 3. *Provided always, and be it further enacted,* That whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse, and retire peaceably to their respective abodes, within a limited time.

To issue a proclamation.

SEC. 4. *And be it further enacted,* That the militia employed in the service of the United States, shall be subject to the same rules and articles of war, as the troops of the United States: And that no officer, non-commissioned officer, or private of the militia shall be compelled to serve more than three months, after his arrival at the place of rendezvous, in any one year, nor more than in due rotation with every other able-bodied man of the same rank in the battalion to which he belongs.

Militia when in service to be subject to the articles of war.

Term of service not to exceed three months, &c.

SEC. 5. *And be it further enacted,* That every officer, non-commissioned officer, or private of the militia, who shall fail to obey the orders of the President of the United States, in any of the cases before recited, shall forfeit a sum not exceeding one year's pay, and not less than one month's pay, to be determined and adjudged by a court martial; and such officer, shall, moreover, be liable to be cashiered by sentence of a court martial, and be incapacitated from holding a commission in the militia, for a term not exceeding twelve months, at the discretion of the said court: And such non-commissioned officers and privates shall be liable to be imprisoned, by a like sentence, on failure of payment of the fines adjudged against them, for one calendar month, for every five dollars of such fines.

Penalty on not obeying the orders of the President in the cases before recited.

SEC. 6. *And be it further enacted,* That courts martial for the trial of militia shall be composed of militia officers only.

Courts martial.

Fines assessed
how to be levied.

Fines, how lev-
ied.

1813, ch. 13.

Marshals of the
districts to have
the same powers
in executing the
laws of U. States
as sheriffs in the
states.

SEC. 7. *And be it further enacted*, That all fines to be assessed, as aforesaid, shall be certified by the presiding officer of the court martial, before whom the same shall be assessed, to the marshal of the district, in which the delinquent shall reside, or to one of his deputies, and also to the supervisor of the revenue of the same district, who shall record the said certificate in a book to be kept for that purpose. The said marshal or his deputy shall forthwith proceed to levy the said fines with costs, by distress and sale of the goods and chattels of the delinquent; which costs and the manner of proceeding, with respect to the sale of the goods distrained, shall be agreeable to the laws of the state, in which the same shall be, in other cases of distress. And where any non-commissioned officer or private shall be adjudged to suffer imprisonment, there being no goods or chattels to be found, whereof to levy the said fines, the marshal of the district, or his deputy, may commit such delinquent to gaol, during the term, for which he shall be so adjudged to imprisonment, or until the fine shall be paid, in the same manner as other persons condemned to fine and imprisonment at the suit of the United States, may be committed.

SEC. 9. *And be it further enacted*, That the marshals of the several districts, and their deputies, shall have the same powers in executing the laws of the United States, as sheriffs and their deputies, in the several states, have by law, in executing the laws of the respective states.

APPROVED, February 28, 1795.

July 16, 1793.
1793, ch. 20.

Power of holding
to the peace and
good behaviour.

CHAP. LXXXIII.—*An Act in further addition to the act entitled "An act to establish the Judicial Courts of the United States."*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the judges of the supreme court, and of the several district courts of the United States, and all judges and justices of the courts of the several states, having authority by the laws of the United States to take cognizance of offences against the constitution and laws thereof, shall respectively have the like power and authority to hold to security of the peace, and

for good behaviour, in cases arising under the constitution and laws of the United States, as may or can be lawfully exercised by any judge or justice of the peace of the respective states, in cases cognizable before them.

APPROVED, July 16, 1798.

CHAP. I.—*An Act for the punishment of certain Crimes therein specified.*

Jan. 30, 1799.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person, being a citizen of the United States, whether he be actually resident, or abiding within the United States, or in any foreign country, shall, without the permission or authority of the government of the United States, directly or indirectly, commence, or carry on, any verbal or written correspondence or intercourse with any foreign government, or any officer or agent thereof, with an intent to influence the measures or conduct of any foreign government, or of any officer or agent thereof, in relation to any disputes or controversies with the United States; or defeat the measures of the government of the United States; or if any person, being a citizen of, or resident within the United States, and not duly authorized, shall counsel, advise, aid or assist in any such correspondence, with intent, as aforesaid, he or they shall be deemed guilty of a high misdemeanor, and on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months, nor exceeding three years: *Provided always,* that nothing in this act contained shall be construed to abridge the right of individual citizens of the United States to apply, by themselves, or their lawful agents, to any foreign government, or the agents thereof, for the redress of any injuries in relation to person or property which such individuals may have sustained from such government, or any of its agents, citizens or subjects.

Penalty of a citizen of the United States for holding correspondence with a foreign government or its agents, with intent to influence the measures of such government in relation to disputes or controversies with the United States.

Aiders and abettors.

Proviso.

APPROVED, January 30, 1799.

Feb. 25, 1799.

CHAP. XIX.—*An Act providing compensation for the Marshals, Clerks, Attornies, Jurors and Witnesses in the Courts of the United States, and to repeal certain parts of the acts therein mentioned; and for other purposes.*

[EXTRACTS.]

Manner of deputy marshal's taking the oath of office, when he resides at a distance from the district judge.

SEC. 2. *And be it further enacted*, That when a deputy marshal, who shall be duly appointed by the marshal of any district, shall reside and be more than twenty miles from the place where the district judge of such district shall reside and be, the oath of office required of such deputy, before he enters on the discharge thereof, may be administered and taken by and before any judge or justice of any state court within the same district, or before any justice of the peace, having authority therein, and being certified by him, to the said district judge, shall be as effectual as if administered or taken before such district judge.

Informers to be alone liable for the fees to clerks, &c.

SEC. 3. *And be it further enacted*, That if any informer on a penal statute, and to whom the penalty, or any part thereof, if recovered, is directed to accrue, shall discontinue his suit or prosecution, or shall be nonsuited in the same, or if, upon trial, judgment shall be rendered in favor of the defendant, unless such informer be an officer of the United States, he shall be alone liable to the clerks, marshals, and attornies for the fees of such prosecution; but if such informer be an officer whose duty it is to commence such prosecution, and the court shall certify there was reasonable ground for the same, then the United States shall be responsible for such fees.

Exception.

APPROVED, February 28, 1799.

March 2. 1799.

CHAP. XXXII.—*An Act providing for the security of Bail in certain cases.*

If a defendant giving bail in one district committed in another, the bail may be discharged.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases where a defendant, who hath procured bail to respond the judgment in a suit brought against him in any of the courts of the United States, shall afterwards be arrested in any district of the United States, other than that in which the first suit was brought, and shall be committed to a gaol, the use of which shall have been ceded to the United States for the custody of prisoners, it shall be lawful

for and the duty of any judge of the court, in which the suit is depending, wherein such defendant had so procured bail as aforesaid, at the request and for the indemnification of the bail, to order and direct that such defendant be held in the gaol to which he shall have been committed a prisoner, in the custody of the marshal, within whose district such gaol is, and upon the said order duly authenticated, being delivered to the said marshal, it shall be his duty to receive such prisoner into his custody, and him safely to keep, and the marshal shall thereupon be chargeable, as in other cases, for his escape. And the said marshal thereupon shall make a certificate, under his hand and seal, of such commitment, and transmit the same to the court from which such order issued; and shall also, if required, make a duplicate thereof, and deliver the same to such bail, his or their agent or attorney, and upon the said certificate being returned to the court which made the said order, it shall be lawful for the said court or any judge thereof, to direct that an exoneration be entered upon the bail piece where special bail shall have been found, or otherwise to discharge such bail, and such bail shall thereupon accordingly be discharged.

Resolution of
Sept. 23, 1789.

Duty of the mar-
shal.

SEC. 2. *And be it further enacted*, That the marshal or his deputy, serving such order as aforesaid, shall therefor receive the same fees and allowances as for the service of an original process commitment thereon to the gaol and the return thereof.

His fees.

SEC. 3. *And be it further enacted*, That in every case of commitment as aforesaid, by virtue of such order as aforesaid, the person so committed shall, unless sooner discharged by law, be holden in gaol until final judgment shall be rendered in the suit in which he procured bail as aforesaid, and sixty days thereafter, if such judgment shall be rendered against him, that he may be charged in execution, which may be directed to and served by the marshal in whose custody he is: *Provided always*, that nothing in this act contained shall effect any case wherein bail has been already given.

Defendant to be
held until judg-
ment in the first
suit, &c.

This act not to af-
fect bail already
given.

APPROVED, March 2, 1799.

May 7, 1800.

CHAP. XLV.—*An Act to authorize the sale and conveyance of lands, in certain cases, by the Marshals of the United States, and to confirm former sales.*

[EXTRACTS.]

Marshals may sell the interest in lands delivered to the United States in satisfaction of judgments, in those states where lands are so delivered.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That where the United States shall have obtained judgment in civil actions, brought in those states wherein by the laws and practice of such states lands or other real estate belonging to the debtor are delivered to the creditor in satisfaction of such judgment, and shall have received seisin and possession of lands so delivered, shall be lawful for the marshal of the district wherein such lands or other real estate are situated, under the directions of the Secretary of the Treasury, to expose the same to sale at public auction, and to execute a grant thereof to the highest bidder, on receiving payment of the full purchase money; which grant, so made, shall vest in such purchaser all the right, estate, and interest of the United States in and to such lands, or other real estate.

Proceedings to conclude the sale of lands in case of the vacancy of the office of marshal.

SEC. 3. *And be it further enacted,* That whenever a marshal shall sell any lands, tenements, or hereditaments, by virtue of process from a court of the United States, and shall die, or be removed from office, or the term of his commission expire, before a deed shall be executed for the same by him to the purchaser; in every such case the purchaser or plaintiff, at whose suit the sale was made, may apply to the court from which the process issued, and set forth the case, assigning the reason why the title was not perfected by the marshal who sold the same; and thereupon the court may order the marshal for the time being to perfect the title, and execute a deed to the purchaser, he paying the purchase money and costs remaining unpaid; and where a marshal shall take in execution any lands, tenements, or hereditaments, and shall die, or be removed from office, or the term of his commission expire before sale, or other final disposition made of the same; in every such case, the like process shall issue to the succeeding marshal, and the same proceedings shall be had, as if such former marshal had not died or been removed, or the term of his commis-

Successors of marshals may complete sales.

sion had not expired: and the provisions in this section contained shall be, and they are hereby extended to all the cases respectively which may have happened before the passing of this act.

APPROVED, May 7, 1800.

CHAP. XXVIII.—*An Act to establish an uniform rule of Naturalization, and to repeal the acts heretofore passed on that subject.*

April 14, 1802.

[EXTRACTS.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise:—

First, That he shall have declared, on oath or affirmation, before the supreme, superior, district or circuit court of some one of the states, or of the territorial districts of the United States, or a circuit or district court of the United States, three years at least, before his admission, that it was, bona fide, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever, and particularly, by name, the prince, potentate, state or sovereignty whereof such alien may, at the time, be a citizen or subject.

Secondly, That he shall, at the time of his application to be admitted, declare on oath or affirmation, before some one of the courts aforesaid, that he will support the constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and particularly, by name, the prince, potentate, state, or sovereignty whereof he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.

Thirdly, That the court admitting such alien shall be satisfied that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least; and it shall further appear to their satisfaction, that during that time, he has behaved as a man of

1804, ch. 47.
1813, ch. 36.
1816, ch. 32.
1824, ch. 186.
An alien may become a citizen of the United States. On what conditions.
To declare on oath or affirmation in the supreme or superior court, or district or circuit court of some of the states or of the U. States, three years before his admission, his intention to renounce forever his allegiance to any sovereign or state of which he is a subject.

To swear or affirm that he will support the constitution of the U. States.

That he shall have resided in the U. States five years before he shall be admitted a citizen.

Shall prove that he is a man of good moral character and attached to the Constitution of the U. States.

Shall renounce every title of nobility held by him.

good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same: *Provided*, that the oath of the applicant shall, in no case, be allowed to prove his residence.

Fourthly, That in case the alien, applying to be admitted to citizenship, shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application shall be made, which renunciation shall be recorded in the said court: *Provided*, that no alien who shall be a native citizen, denizen or subject of any country, state or sovereign, with whom the United States shall be at war, at the time of his application, shall be then admitted to be a citizen of the United States: * * *

What courts are to be considered as capable of naturalizing aliens.

SEC. 3. *And whereas*, doubts have arisen whether certain courts of record in some of the states, are included within the description of district or circuit courts: *Be it further enacted*, that every court of record in any individual state, having common law jurisdiction, and a seal and clerk or prothonotary, shall be considered as a district court within the meaning of this act; and every alien who may have been naturalized in any such court, shall enjoy, from and after the passing of the act, the same rights and privileges, as if he had been naturalized in a district or circuit court of the United States.

Children of persons naturalized under certain laws to be citizens of the United States.

SEC. 4. *And be it further enacted*, That the children of persons duly naturalized under any of the laws of the United States, or who, previous to the passing of any law on that subject, by the government of the United States, may have become citizens of any one of the said States, under the laws thereof, being under the age of twenty-one years, at the time of their parents being so naturalized or admitted to the rights of citizenship, shall, if dwelling in the United States, be considered as citizens of the United States, and the children of persons who now are, or have been citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens of the United States: *Provided*, that

the right of citizenship shall not descend to persons whose fathers have never resided within the United States: *Provided also*, that no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain, during the late war, shall be admitted a citizen, as aforesaid, without the consent of the legislature of the state in which such person was proscribed.

APPROVED, April 14, 1802.

CHAP. XXXI.—*An Act to amend the Judicial System of the United States.*

[EXTRACTS.]

SEC. 6. *And be it further enacted*, That whenever any question shall occur before a circuit court, upon which the opinions of the judges shall be opposed, the point upon which the disagreement shall happen, shall, during the same term, upon the request of either party, or their counsel, be stated under the direction of the judges, and certified under the seal of the court, to the supreme court, at their next session to be held thereafter; and shall, by the said court, be finally decided. And the decision of the supreme court, and their order in the premises, shall be remitted to the circuit court, and be there entered of record, and shall have effect according to the nature of the said judgment and order: *Provided*, that nothing herein contained shall prevent the cause from proceeding, if, in the opinion of the court, farther proceedings can be had without prejudice to the merits: and provided also, that imprisonment shall not be allowed, nor punishment in any case be inflicted, where the judges of the said court are divided in opinion upon the question touching the said imprisonment or punishment.

SEC. 25. *And be it farther enacted*, That in all suits in equity, it shall be in the discretion of the court, upon the request of either party, to order the testimony of the witnesses therein to be taken by depositions; which depositions shall be taken in conformity to the regulations prescribed by law for the courts of the highest original jurisdiction in equity, in cases of a similar nature, in that state in which the court of the United States may be holden: *Provided however*, that nothing herein contained shall extend to the circuit

Privilege of citizenship not to extend to children of persons who have never resided in the U. States. Or to persons proscribed, &c.

April 23, 1802.

In case of disagreement in opinion of the judges of the circuit court, that of the supreme court upon the point stated to be conclusive.

Decision of the supreme court to be remitted to the circuit court and to be of effect.

Imprisonment, &c. not to be inflicted when the court is divided.

Testimony of witnesses in chancery suits may be taken in writing.

Cases in which it shall not be taken in writing.

courts which may be holden in those states, in which testimony in chancery is not taken by deposition.

APPROVED, April 29, 1802.

March 2, 1803.

CHAP. XV.—*An Act in addition to an act, intituled "An act more effectually to provide for the National defence, by establishing an uniform Militia throughout the United States."*

1792, ch. 33.

1806, ch. 20, article 20.

1814, ch. 80.

1820, ch. 97.

1821, ch. 13.

Adjutant-general of the militia to make returns to the President annually.

1816, ch. 64.

Abstracts of the returns to be laid before Congress.

Citizens enrolled in the militia to be constantly provided with arms, &c.

Additional officers to the militia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the adjutant-general of the militia in each state, to make return of the militia of the state to which he belongs, with their arms, accoutrements, and ammunition, agreeably to the directions of the act, to which this is an addition, to the President of the United States annually, on or before the first Monday in January in each year: and it shall be the duty of the Secretary of War, from time to time, to give such directions to the adjutant-generals of the militia, as shall, in his opinion, be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before Congress, on or before the first Monday of February, annually.

SEC. 2. *And be it further enacted,* That every citizen duly enrolled in the militia, shall be constantly provided with arms, accoutrements, and ammunition, agreeably to the direction of the said act, from and after he shall be duly notified of his enrolment; and any notice or warning to the citizens so enrolled, to attend a company, battalion, or regimental muster, or training, which shall be according to the laws of the state in which it is given for that purpose, shall be deemed a legal notice of his enrolment.

SEC. 3. *And be it further enacted,* That in addition the officers provided for by the said act, there shall be, to the militia of each state one quartermaster-general, to each brigade one quartermaster of brigade, and to each regiment one chaplain.

APPROVED, March 2, 1803.

CHAP. XL—*An Act in addition to an act intituled "An act to amend the Judicial system of the United States."* March 3, 1803.

[EXTRACTS.]

SEC. 2. *And be it further enacted*, That from all final judgments or decrees in any of the district courts of the United States, an appeal, where the matter in dispute, exclusive of costs, shall exceed the sum or value of fifty dollars, shall be allowed to the circuit court next to be holden in the district where such final judgment or judgments, decree or decrees, may be rendered; and the circuit court or courts are hereby authorized and required to receive, hear and determine such appeal; and that from all final judgments or decrees rendered or to be rendered in any circuit court, or in any district court acting as a circuit court, in any cases of equity, of admiralty and maritime jurisdiction, and of prize or no prize, an appeal where the matter in dispute, exclusive of costs, shall exceed the sum or value of two thousand dollars, shall be allowed to the supreme court of the United States, and that upon such appeal, a transcript of the libel, bill, answer, depositions, and all other proceedings of what kind soever in the cause, shall be transmitted to the said supreme court; and that no new evidence shall be received in the said court, on the hearing of such appeal, except in admiralty and prize causes, and that such appeals shall be subject to the same rules, regulations and restrictions as are prescribed in law in case of writs of error; and that the said supreme court shall be, and hereby is authorized and required to receive, hear and determine such appeals. And that so much of the nineteenth and twenty-second sections of the act of Congress, intituled "An Act to establish the judicial courts of the United States," passed on the twenty-fourth day of September, one thousand seven hundred and eighty-nine, as comes within the purview of this act, shall be and the same is hereby repealed.

APPROVED, March 3, 1803.

Appeals from final judgments when the value in dispute exceeds fifty dollars from the district court to the circuit court.

Appeals from the circuit court to the supreme court where the matter in dispute exceeds 2000 dollars.

Proceedings to be transmitted to the supreme court.

No new evidence to be received in the supreme court except in admiralty and prize causes.

19th and 22d sections of the act of 24th Sept. 1789, ch. 20, so far as affected by this act, repealed.

March 26, 1804.

CHAP. XLVII.—*An Act in addition to an act intituled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."*

[EXTRACTS.]

1802, ch. 28.

After an alien shall have complied with certain directions his widow and children made citizens of the U. States.

SEC. 2. *And be it further enacted*, That when any alien who shall have complied with the first condition specified in the first section of the said original act, and who shall have pursued the directions prescribed in the second section of the said act, may die, before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.

APPROVED, March 26, 1804.

March 27, 1804.

CHAP. LVI.—*An Act supplementary to the act intituled "An act to prescribe the mode in which the public acts, records and judicial proceedings in each State shall be authenticated so as to take effect in every other State."*

1790, ch. 11.

The attestation of the keeper of the records which may be kept in any public office of a state not appertaining to a court, under his seal of office, with a certificate of the presiding judge, or of the governor, chancellor, &c., that the attestation is in due form, shall have full force and credit in every court of the U. S. as in the courts of the state.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, all records and exemplifications of office books, which are or may be kept in any public office of any state, not appertaining to a court, shall be proved or admitted in any other court or office in any other state, by the attestation of the keeper of said records or books, and the seal of his office thereto annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county or district, as the case may be, in which such office is or may be kept; or of the governor, the secretary of state, the chancellor or the keeper of the great seal of the state, that the said attestation is in due form, and by the proper officer; and the said certificate, if given by the presiding justice of a court, shall be farther authenticated by the clerk or prothonotary of the said court, who shall certify under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or if the said certificate be given by the governor, the secretary of state, the chancellor or keeper of the great seal, it shall be under the great seal of the state in which

the said certificate is made. And the said records and exemplifications, authenticated as aforesaid, shall have such faith and credit given to them in every court and office within the United States, as they have by law or usage in the courts or offices of the state from whence the same are, or shall be taken.

SEC. 2. *And be it further enacted*, That all the provisions of this act, and the act to which this is a supplement, shall apply as well to the public acts, records, office books, judicial proceedings, courts and offices of the respective territories of the United States, and countries subject to the jurisdiction of the United States, as to the public acts, records, office books, judicial proceedings, courts and offices of the several states.

APPROVED, March 27, 1804.

To what acts the provisions of this law shall apply.

CHAP. XX.—*An Act for establishing Rules and Articles for the government of the Armies of the United States.*

April 10, 1806.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, the following shall be the rules and articles by which the armies of the United States shall be governed:

Armies of the U. S. to be governed by the following rules, &c. Rules and regulations.

Article 1. Every officer now in the army of the United States, shall, in six months from the passing of this act, and every officer who shall hereafter be appointed, shall, before he enters on the duties of his office, subscribe these rules and regulations.

Officers to subscribe these rules.

Article 2. It is earnestly recommended to all officers and soldiers, diligently to attend divine service; and all officers who shall behave indecently or irreverently at any place of divine worship, shall, if commissioned officers, be brought before a general court martial, there to be publicly and severely reprimanded by the president; if non-commissioned officers or soldiers, every person so offending shall, for his first offence, forfeit *one sixth of a dollar*, to be deducted out of his next pay; for the second offence, he shall not only forfeit a like sum, but be confined twenty-four hours; and for every like offence, shall suffer and pay in like manner; which money, so forfeited, shall be applied by the captain or senior officer of the troop or company, to the use of the sick soldiers of the company or troop to which the offender belongs.

Officers and soldiers recommended to attend divine service. Indecent and irreverent conduct punished.

Profane swearing.

Article 3. Any non-commissioned officer or soldier who shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article; and a commissioned officer shall forfeit and pay for each and every such offence, *one dollar*, to be applied as in the preceding article.

Absence of chaplains an offence.

Article 4. Every chaplain, commissioned in the army or armies of the United States, who shall absent himself from the duties assigned him (excepting in cases of sickness or leave of absence) shall, on conviction thereof before a court martial, be fined not exceeding one month's pay, besides the loss of his pay during his absence; or be discharged, as the said court martial shall judge proper.

Contemptuous words against the President and Vice President.

Article 5. Any officer or soldier, who shall use contemptuous or disrespectful words against the President of the United States, against the Vice President thereof, against the Congress of the United States, or against the chief magistrate or legislature of any of the United States, in which he may be quartered, if a commissioned officer, shall be cashiered, or otherwise punished, as a court martial shall direct; if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted on him by the sentence of a court martial.

Contempt or disrespect to commanding officers.

Article 6. Any officer or soldier who shall behave himself with contempt or disrespect towards his commanding officer, shall be punished according to the nature of his offence, by the judgment of a court martial.

Exciting to mutiny.

Article 7. Any officer or soldier who shall begin, excite, cause or join in any mutiny or sedition in any troop or company in the service of the United States, or in any party, post, detachment, or guard, shall suffer death, or such other punishment as by a court martial shall be inflicted.

Officers present at mutiny or sedition not giving information or endeavouring to suppress the mutiny.

Article 8. Any officer non commissioned officer, or soldier, who, being present at any mutiny or sedition, does not use his utmost endeavour to suppress the same, or coming to the knowledge of any intended mutiny, does not, without delay, give information thereof to his commanding officer, shall be punished by the sentence of a court martial with death, or otherwise, according to the nature of his offence.

striking a superior officer.

Article 9. Any officer or soldier who shall strike his

superior officer, or draw or lift up any weapon or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offence be inflicted upon him by the sentence of a court martial.

Death.

Article 10. Every non-commissioned officer or soldier who shall enlist himself in the service of the United States, shall, at the time of his so enlisting, or within six days afterwards, have the articles for the government of the armies of the United States, read to him, and shall, by the officer who enlisted him, or by the commanding officer of the troop or company into which he was enlisted, be taken before the next justice of the peace, or chief magistrate of any city or town corporate, not being an officer of the army, or where recourse cannot be had to the civil magistrate, before the judge advocate, and, in his presence, shall take the following oath, or affirmation: "I, A. B. do solemnly swear, or affirm, (as the case may be) that I will bear true allegiance to the United States of America, and that I will serve them honestly and faithfully against all their enemies or opposers whatsoever, and observe and obey the orders of the President of the United States, and the orders of the officers appointed over me, according to the rules and articles for the government of the armies of the United States:" which justice, magistrate, or judge advocate, is to give the officer a certificate, signifying that the man enlisted did take the said oath or affirmation.

Rules and articles to be read on enlistment.

Oath.

To be taken before a magistrate.

Article 11. After a non-commissioned officer or soldier shall have been duly enlisted and sworn, he shall not be dismissed the service without a discharge in writing; and no discharge granted to him, shall be sufficient, which is not signed by a field officer of the regiment to which he belongs, or commanding officer where no field officer of the regiment is present; and no discharge shall be given to a non-commissioned officer, or soldier, before his term of service has expired, but by order of the President, the Secretary of War, the commanding officer of the department, or the sentence of a general court martial; nor shall a commissioned officer be discharged the service, but

After enlistment not to be discharged unless in writing.

Discharges how given.

by order of the President of the United States, or by sentence of a general court martial.

Furloughs to non-commissioned officers or soldiers.

Article 12. Every colonel, or other officer, commanding a regiment, troop or company, and actually quartered with it, may give furloughs to non-commissioned officers or soldiers, in such numbers, and for so long a time as he shall judge to be most consistent with the good of the service; and a captain, or other inferior officer, commanding a troop or company, or in any garrison, fort or barrack of the United States, (his field officer being absent) may give furloughs to non-commissioned officers or soldiers, for a time not exceeding twenty days in six months, but not to more than two persons to be absent at the same time, excepting some extraordinary occasion shall require it.

Certificates signifying how long officers have been absent, to be given to the commissary of musters.

Article 13. At every muster the commanding officer of each regiment, troop or company there present, shall give to the commissary of musters, or other officer who musters the said regiment, troop or company, certificates signed by himself, signifying how long such officers, as shall not appear at the said muster, have been absent, and the reason of their absence. In like manner, the commanding officer of every troop or company, shall give certificates, signifying the reasons of the absence of the non-commissioned officers and private soldiers, which reasons, and time of absence, shall be inserted in the muster rolls, opposite the name of the respective absent officers and soldiers. The certificates shall, together with the muster rolls, be remitted by the commissary of musters, or other officer mustering, to the department of war, as speedily as the distance of the place will admit.

The certificates to be sent to the department of war.

False certificates.

Article 14. Every officer who shall be convicted, before a general court martial, of having signed a false certificate, relating to the absence of either officer or private soldier, or relative to his or their pay, shall be cashiered.

False musters.

Article 15. Every officer who shall knowingly make a false muster of man or horse, and every officer or commissary of musters, who shall willingly sign, direct, or allow the signing of muster rolls, wherein such false muster is contained, shall, upon proof made thereof by two witnesses, before a general court mar-

shall, be cashiered, and shall be thereby utterly disabled to have or hold any office or employment in the service of the United States.

Article 16. Any commissary of musters, or other officer, who shall be convicted of having taken money or other thing, by way of gratification, on mustering any regiment, troop or company, or on signing muster rolls, shall be displaced from his office, and shall be thereby utterly disabled to have, or hold any office or employment in the service of the United States.

Taking money for false musters.

Article 17. Any officer who shall presume to muster a person as a soldier, who is not a soldier, shall be deemed guilty of having made a false muster, and shall suffer accordingly.

Muster of a person not a soldier.

Article 18. Every officer who shall knowingly make a false return to the department of war, or to any of his superior officers, authorized to call for such returns, of the state of the regiment, troop or company, or garrison under his command; or of the arms, ammunition, clothing or other stores thereunto belonging, shall, on conviction thereof before a court martial, be cashiered.

Making false returns.

Article 19. The commanding officer of every regiment, troop or independent company, or garrison of the United States, shall, in the beginning of every month, remit, through the proper channels, to the department of war, an exact return of the regiment, troop, independent company, or garrison, under his command, specifying the names of the officers then absent from their posts, with the reasons for, and the time of their absence. And any officer who shall be convicted of having, through neglect or design, omitted sending such returns, shall be punished according to the nature of his crime by the judgment of a general court martial.

Monthly returns of the regiment.

Punishment for neglect.

Article 20. All officers and soldiers, who have received pay, or have been duly enlisted in the service of the United States, and shall be convicted of having deserted the same, shall suffer death, or such other punishment as by sentence of a court martial shall be inflicted.

Desertion.

Article 21. Any non-commissioned officer or soldier, who shall, without leave from his commanding officer,

Absence without leave.

absent himself from his troop, company or detachment, shall upon being convicted thereof, be punished according to the nature of his offence, at the discretion of a court martial.

Enlistment in
other regiments
without having
been discharged.

Article 22. No non-commissioned officer or soldier shall enlist himself in any other regiment, troop, or company, without a regular discharge from the regiment, troop, or company, in which he last served, on the penalty of being reputed a deserter, and suffering accordingly. And in case any officer shall knowingly receive and entertain such non-commissioned officer or soldier, or shall not, after his being discovered to be a deserter, immediately confine him and give notice thereof to the corps in which he last served, the said officer shall, by a court martial, be cashiered.

Advising to desert.

Article 23. Any officer or soldier who shall be convicted of having advised or persuaded any other officer or soldier to desert the service of the United States, shall suffer death, or such other punishment as shall be inflicted upon him by the sentence of a court martial.

Reproachful
speeches by soldiers.

Article 24. No officer or soldier shall use any reproachful or provoking speeches or gestures to another, upon pain, if an officer, of being put in arrest; if a soldier, confined, and of asking pardon of the party offended, in the presence of his commanding officer.

Sending a challenge to fight.

Article 25. No officer or soldier shall send a challenge to another officer or soldier, to fight a duel, or accept a challenge, if sent, upon pain, if a commissioned officer of being cashiered; if a non-commissioned officer or soldier, of suffering corporeal punishment, at the discretion of a court martial.

Allowing a person to go forth to fight a duel.

Article 26. If any commissioned or non-commissioned officer commanding a guard, shall knowingly or willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and all seconds, promoters and carriers of challenges, in order to duels, shall be deemed principals, and be punished accordingly. And it shall be the duty of every officer, commanding an army, regiment, company, post, or detachment, who is knowing to a challenge being given, or accepted, by any officer, non-commissioned officer, or soldier, under his command, or has reason to believe the same to be the case, immediately to arrest and bring to trial such offenders.

Article 27. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, though the persons concerned should belong to another regiment, troop, or company; and either to order officers into arrest, or non-commissioned officers or soldiers into confinement, until their proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer, (though of an inferior rank) or shall draw his sword upon him, shall be punished at the discretion of a general court martial.

Quarrels and frays.

Article 28. Any officer or soldier, who shall upbraid another for refusing a challenge, shall himself be punished as a challenger, and all officers and soldiers are hereby discharged from any disgrace or opinion of disadvantage, which might arise from their having refused to accept of challenges, as they will only have acted in obedience to the laws, and done their duty as good soldiers, who subject themselves to discipline.

Upbraiding another for not accepting a challenge.

Article 29. No suttler shall be permitted to sell any kind of liquors or victuals, or to keep their houses or shops open for the entertainment of soldiers, after nine at night, or before the beating of the reveillies, or upon Sundays, during divine service or sermon, on the penalty of being dismissed from all future suttling.

Prohibition of sale of liquors and victuals after nine at night.

Article 30. All officers commanding in the field, forts, barracks, or garrisons of the United States, are hereby required to see that the persons permitted to suttler, shall supply the soldiers with good and wholesome provisions, or other articles, at a reasonable price, as they shall be answerable for their neglect.

Suttlers.

Article 31. No officer commanding in any of the garrisons, forts, or barracks of the United States, shall exact exorbitant prices for houses or stalls let out to suttlers, or connive at the like exactions in others; nor by his own authority, and for his private advantage, lay any duty or imposition upon, or be interested in, the sale of any victuals, liquors, or other necessities of life, brought into the garrison, fort, or barracks, for the use of the soldiers, on the penalty of being discharged from the service.

Rents of stalls, &c. to suttlers.

Article 32. Every officer commanding in quarters, garrisons, or on the march, shall keep good order, and to the utmost of his power, redress all abuses or disorders, which may be committed by any officer or

Good order to be kept.

Reparation for injuries.

soldier under his command; if upon complaint made to him of officers or soldiers beating, or otherwise ill treating, any person, of disturbing fairs or markets, or of committing any kinds of riots to the disquieting of the citizens of the United States, he, the said commander, who shall refuse or omit to see justice done to the offender or offenders, and reparation made to the party or parties injured, as far as part of the offender's pay shall enable him or them, shall, upon proof thereof, be cashiered or otherwise punished as a general court martial shall direct.

Officers or soldiers who commit offences against the persons or property of citizens of the United States to be delivered over to the officers of justice.

Article 33. When any commissioned officer or soldier, shall be accused of a capital crime, or of having used violence, or committed any offence against the persons or property of any citizen of any of the United States, such as is punishable by the known laws of the land, the commanding officer, and officers of every regiment, troop, or company, to which the person, or persons, so accused, shall belong, are hereby required, upon application duly made by, or in behalf of the party or parties injured, to use their utmost endeavours to deliver over such accused person, or persons, to the civil magistrate; and likewise to be aiding and assisting to the officers of justice in apprehending and securing the person or persons so accused, in order to bring him or them to trial. If any commanding officer, or officers, shall wilfully neglect, or shall refuse, upon the application aforesaid, to deliver over such accused person, or persons, to the civil magistrates, or to be aiding and assisting to the officers of justice in apprehending such person, or persons, the officer, or officers, so offending, shall be cashiered.

Punishment for neglect.

Officers who shall think themselves wronged by their commanding officer may complain to the general.

Article 34. If any officer shall think himself wronged by his colonel, or the commanding officer of the regiment, and shall, upon due application being made to him, be refused redress, he may complain to the general, commanding in the state or territory where such regiment shall be stationed, in order to obtain justice; who is hereby required to examine into the said complaint, and take proper measures for redressing the wrong complained of, and transmit, as soon as possible, to the department of war, a true state of such complaint, with the proceedings had thereon.

Article 35. If any inferior officer or soldier shall think himself wronged by his captain, or other officer, he is to complain thereof to the commanding officer of the regiment, who is hereby required to summon a regimental court martial, for the doing justice to the complainant; from which regimental court martial, either party may, if he thinks himself still aggrieved, appeal to a general court martial. But if, upon a second hearing, the appeal shall appear vexatious and groundless, the person, so appealing, shall be punished at the discretion of the said court martial.

Inferior officers
who think them-
selves wronged.

Article 36. Any commissioned officer, storekeeper, or commissary, who shall be convicted at a general court martial, of having sold, without a proper order for that purpose, embezzled, misapplied, or wilfully, or through neglect, suffered any of the provisions, forage, arms, clothing, ammunition, or other military stores, belonging to the United States, to be spoiled, or damaged, shall, at his own expense, make good the loss, or damage, and shall, moreover, forfeit all his pay, and be dismissed from the service.

Embezzlement
&c. of public prop-
erty by commis-
sioned officers.

Article 37. Any non-commissioned officer, or soldier, who shall be convicted, at a regimental court martial, of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him, to be employed in the service of the United States, shall be punished at the discretion of such court.

Embezzlement,
&c. by soldiers.

Article 38. Every non-commissioned officer or soldier, who shall be convicted before a court martial, of having sold, lost, or spoiled, through neglect, his horse, arms, clothes, or accoutrements, shall undergo such weekly stoppages, (not exceeding the half of his pay) as such court martial shall judge sufficient, for repairing the loss or damage; and shall suffer confinement or such other corporeal punishment as his crime shall deserve.

Sale of his horse,
arms, &c. by non-
commissioned of-
ficers or soldiers.

Article 39. Every officer, who shall be convicted before a court martial, of having embezzled, or misapplied any money, with which he may have been entrusted for the payment of the men under his command, or for enlisting men into the service, or for other purposes, if a commissioned officer, shall be cashiered, and compelled to refund the money; if a non-commissioned officer, shall be reduced to the ranks, be put

Embezzlement of
money.

under stoppages until the money be made good, and suffer such corporeal punishment as such court martial shall direct.

Every captain of a troop to be accountable for the arms of the troop.

Article 40. Every captain of a troop, or company, is charged with the arms, accoutrements, ammunition, clothing, or other warlike stores belonging to the troop, or company under his command, which he is to be accountable for to his colonel, in case of their being lost, spoiled, or damaged, not by unavoidable accidents, or on actual service.

Officer or soldier out of garrison without leave in writing.

Article 41. All non-commissioned officers and soldiers, who shall be found one mile from the camp without leave, in writing, from their commanding officer, shall suffer such punishment as shall be inflicted upon them by the sentence of a court martial.

Absence from camp without leave.

Article 42. No officer, or soldier, shall lie out of his quarters, garrison, or camp, without leave from his superior officer, upon penalty of being punished according to the nature of his offence, by the sentence of a court martial.

Retirement to quarters at beating the retreat.

Article 43. Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the retreat; in default of which he shall be punished according to the nature of his offence.

Attendance at parade.

Article 44. No officer, non-commissioned officer, or soldier, shall fail in repairing, at the time fixed, to the place of parade, of exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness, or some other evident necessity; or shall go from the said place of rendezvous, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence by the sentence of a court martial.

Drunkenness.

Article 45. Any commissioned officer who shall be found drunk on his guard, party, or other duty, shall be cashiered. Any non-commissioned officer or soldier so offending, shall suffer such corporeal punishment as shall be inflicted by the sentence of a court martial.

Sentinel sleeping on his post.

Article 46. Any sentinel who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment as shall be inflicted by the sentence of a court martial.

Article 47. No soldier belonging to any regiment, troop, or company, shall hire another to do his duty for him, or be excused from duty, but in cases of sickness, disability, or leave of absence; and every such soldier found guilty of hiring his duty, as also the party so hired to do another's duty, shall be punished at the discretion of a regimental court martial.

Excuses from duty.

Hiring of duty.

Article 48. And every non-commissioned officer conniving at such hiring of duty aforesaid, shall be reduced; and every commissioned officer, knowing and allowing such ill practices in the service, shall be punished by the judgment of a general court martial.

Connivance at hiring.

Article 49. Any officer belonging to the service of the United States, who, by discharging of fire arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison, or quarters, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

False alarms by officers.

Article 50. Any officer or soldier, who shall, without urgent necessity or without the leave of his superior officer, quit his guard, platoon, or division, shall be punished according to the nature of his offence, by the sentence of a court martial.

Quitting guard.

Article 51. No officer or soldier shall do violence to any person who brings provisions or other necessities to the camp, garrison, or quarters, of the forces of the United States, employed in any parts out of the said states, upon pain of death, or such other punishment as a court martial shall direct.

Violence to persons bringing provisions.

Article 52. Any officer or soldier, who shall misbehave himself before the enemy, run away, or shamefully abandon any fort, post, or guard, which he or they may be commanded to defend, or speak words inducing others to do the like; or shall cast away his arms and ammunition, or who shall quit his post or colours to plunder and pillage, every such offender, being duly convicted thereof, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Misbehaviour before the enemy.

Casting away arms.

Plunder.

Article 53. Any person belonging to the armies of the United States, who shall make known the watchword to any person who is not entitled to receive it, according to the rules and discipline of war, or shall

Making known the watchword.

presume to give a parole or watchword, different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court martial.

Behaviour on
march.

Article 54. All officers and soldiers are to behave themselves orderly in quarters, and on their march; and whosoever shall commit any waste or spoil, either in walks or trees, parks, warrens, fish ponds, houses, or gardens, cornfields, enclosures of meadows, or shall maliciously destroy any property whatsoever, belonging to the inhabitants of the United States, unless by order of the then commander in chief of the armies of the said states, shall (besides such penalties as they are liable to by law) be punished according to the nature and degree of the offence, by the judgment of a regimental or general court martial.

Forcing a safe
guard.

Article 55. Whosoever, belonging to the armies of the United States, employed in foreign parts, shall force a safe guard, shall suffer death.

Relieving or as-
sisting the ene-
my.

Article 56. Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, or such other punishment as shall be ordered by the sentence of a court martial.

Correspondence
with the enemy.

Article 57. Whosoever shall be convicted of holding correspondence with or giving intelligence to the enemy either directly or indirectly, shall suffer death or such other punishment as shall be ordered by the sentence of a court martial.

All public stores
taken in the ene-
my's camp to be
secured.

Article 58. All public stores taken in the enemy's camp, towns, forts, or magazines, whether of artillery, ammunition, clothing, forage or provisions, shall be secured for the service of the United States; for the neglect of which the commanding officer is to be answerable.

Compelling the
surrender of a
fort, &c.

Article 59. If any commander of any garrison, fortress, or post, shall be compelled, by the officers and soldiers under his command, to give up to the enemy, or to abandon it, the commissioned officers, non-commissioned officers, or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a court martial.

Suttlers to be sub-
ject to orders.

Article 60. All suttlers and retainers to the camp,

and all persons whatsoever, serving with the armies of the United States in the field, though not enlisted soldiers, are to be subject to orders, according to the rules and discipline of war.

Rank of brevets.

Article 61. Officers having brevets, or commissions, of a prior date to those of the regiment in which they serve, may take place in courts martial and on detachments, when composed of different corps, according to the ranks given them in their brevets, or dates of their former commissions; but in the regiment, troop, or company, to which such officers belong, they shall do duty and take rank, both in courts martial and on detachments, which shall be composed only of their own corps, according to the commissions by which they are mustered in the said corps.

Command on march.

Article 62. If upon marches, guards, or in quarters, different corps of the army shall happen to join, or do duty together, the officer highest in rank of the line of the army, marine corps, or militia, by commission there, on duty, or in quarters, shall command the whole, and give orders for what is needful to the service, unless otherwise specially directed by the President of the United States, according to the nature of the case.

Engineers.

Article 63. The functions of the engineers being generally confined to the most elevated branch of military science, they are not to assume, nor are they subject to be ordered on any duty beyond the line of their immediate profession, except by the special order of the President of the United States; but they are to receive every mark of respect, to which their rank in the army may entitle them, respectively, and are liable to be transferred, at the discretion of the President, from one corps to another, regard being paid to rank.

General court martial.

Article 64. General courts martial may consist of any number of commissioned officers, from five to thirteen, inclusively, but they shall not consist of less than thirteen, where that number can be convened, without manifest injury to the service.

General officers may appoint court martial.

Article 65. Any general officer commanding an army, or colonel commanding a separate department, may appoint general courts martial, whenever necessary. But no sentence of a court martial shall be carried into execution until after the whole proceedings

shall have been laid before the officer ordering the same, or the officer commanding the troops for the time being; neither shall any sentence of a general court martial, in time of peace, extending to the loss of life, or the dismissal of a commissioned officer, or which shall, either in time of peace or war, respect a general officer, be carried into execution, until after the whole proceedings shall have been transmitted to the Secretary of war, to be laid before the President of the United States, for his confirmation or disapproval, and orders, in the case. All other sentences may be confirmed and executed by the officer ordering the court to assemble, or the commanding officer, for the time being, as the case may be.

Proceedings of
court martial.

Commanding off-
icers of regiments
may appoint
courts martial.

Article 66. Every officer commanding a regiment, or corps, may appoint, for his own regiment, or corps, courts martial, to consist of three commissioned officers, for the trial and punishment of offences not capital, and decide upon their sentences. For the same purpose, all officers, commanding any of the garrisons, forts, barracks, or other places, where the troops consist of different corps, may assemble courts martial, to consist of three commissioned officers, and decide upon their sentences.

No garrison or
regimental court
martial shall
have power to try
officers.

Limitation of
powers.

Article 67. No garrison, or regimental court martial shall have the power to try capital cases, or commissioned officers; neither shall they inflict a fine exceeding one month's pay, nor imprison, nor put to hard labour, any non-commissioned officer or soldier, for a longer time than one month.

Court martial
how composed.

Article 68. Whenever it may be found convenient and necessary to the public service, the officers of the marines shall be associated with the officers of the land forces, for the purpose of holding courts martial and trying offenders belonging to either; and in such cases the orders of the senior officer of either corps, who may be present and duly authorized, shall be received and obeyed.

Judge advocate.

Article 69. The judge advocate, or some person deputed by him, or by the general or officer commanding the army, detachment, or garrison, shall prosecute in the name of the United States, but shall so far consider himself as counsel for the prisoner, after the said prisoner shall have made his plea, as to object to

any leading question to any of the witnesses, or any question to the prisoner, the answer to which might tend to criminate himself; and administer to each member of the court, before they proceed upon any trial, the following oath, which shall also be taken by all members of the regimental and garrison courts martial:

“You A. B. do swear, that you will well and truly try and determine, according to evidence, the matter now before you, between the United States of America and the prisoner to be tried; and that you will duly administer justice, according to the provisions of ‘An act establishing rules and articles for the government of the armies of the United States,’ without partiality, favour or affection: and if any doubt shall arise, not explained by said articles, according to your conscience, the best of your understanding, and the custom of war in like cases: and you do further swear, that you will not divulge the sentence of the court until it shall be published by the proper authority: neither will you disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law. *So help you God.*”

Oath of officers
of court martial.

And as soon as the said oath shall have been administered to the respective members, the president of the court shall administer to the judge advocate, or person officiating as such, an oath in the following words:

“You A. B. do swear, that you will not disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness, by a court of justice in due course of law; nor divulge the sentence of the court, to any but the proper authority, until it shall be duly disclosed by the same. *So help you God.*”

Oath of judge ad-
vocate.

Article 70. When a prisoner arraigned before a general court martial shall, from obstinacy and deliberate design, stand mute or answer foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had regularly pleaded not guilty.

Prisoner standing
mute.

Article 71. When a member shall be challenged by a prisoner, he must state his cause of challenge, of which the court shall, after due deliberation, deter-

Challenges of
members of
courts martial
by prisoners.

mine the relevancy or validity, and decide accordingly; and no challenge to more than one member at a time shall be received by the court.

Behaviour of the members of a court martial.

Article 72. All the members of a court martial are to behave with decency and calmness; and in giving their votes, are to begin with the youngest in commission.

Evidence.

Article 73. All persons who give evidence before a court martial, are to be examined on oath or affirmation in the following form:

“You swear or affirm, (as the case may be,) the evidence you shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. *So help you God.*”

Depositions.

Article 74. On the trials of cases not capital, before courts martial, the deposition of witnesses not in the line or staff of the army, may be taken before some justice of the peace, and read in evidence: provided, the prosecutor and the person accused are present at the taking the same, or are duly notified thereof.

Officers not to be tried, if it can be avoided, by inferior officers.

Article 75. No officer shall be tried but by a general court martial, nor by officers of an inferior rank, if it can be avoided: nor shall any proceedings or trials be carried on excepting between the hours of eight in the morning and three in the afternoon, excepting in cases which, in the opinion of the officer appointing the court martial, require immediate example.

Sessions of courts martial.

Officers before courts martial.

Article 76. No person whatsoever shall use any menacing words, signs, or gestures, in presence of a court martial, or shall cause any disorder or riot, or disturb their proceedings, on the penalty of being punished, at the discretion of the said court martial.

Arrest of officers.

Article 77. Whenever any officer shall be charged with a crime, he shall be arrested and confined in his barracks, quarters, or tent, and deprived of his sword, by the commanding officer. And any officer who shall leave his confinement before he shall be set at liberty by his commanding officer, or by a superior officer, shall be cashiered.

Confinement of offenders.

Confinement of persons charged with crimes.

Article 78. Non-commissioned officers and soldiers, charged with crimes, shall be confined, until tried by a court martial, or released by proper authority.

No officer to be

Article 79. No officer or soldier who shall be put

in arrest, shall continue in confinement more than eight days, or until such time as a court martial can be assembled.

confined more than eight days before trial.

Article 80. No officer commanding a guard, or provost marshal, shall refuse to receive or keep any prisoner committed to his charge, by an officer belonging to the forces of the United States; provided the officer committing, shall, at the same time, deliver an account in writing, signed by himself, of the crime with which the said prisoner is charged.

Officers refusing to keep prisoners.

Article 81. No officer commanding a guard, or provost marshal, shall presume to release any person committed to his charge, without proper authority for so doing, nor shall he suffer any person to escape, on the penalty of being punished for it by the sentence of a court martial.

Releasing prisoners or suffering them to escape.

Article 82. Every officer or provost marshal, to whose charge prisoners shall be committed, shall, within twenty four hours after such commitment, or as soon as he shall be relieved from his guard, make report in writing, to the commanding officer, of their names, their crimes, and the names of the officers who committed them, on the penalty of being punished for disobedience or neglect, at the discretion of a court martial.

Report to be made of prisoners.

Article 83. Any commissioned officer convicted before a general court martial of conduct, unbecoming an officer and a gentleman, shall be dismissed the service.

Behaviour before courts martial.

Article 84. In cases where a court martial may think it proper to sentence a commissioned officer to be suspended from command, they shall have power also to suspend his pay and emoluments for the same time, according to the nature and heinousness of the offence.

Sentences of courts martial.

Article 85. In all cases where a commissioned officer is cashiered for cowardice or fraud, it shall be added in the sentence, that the crime, name, and place of abode and punishment of the delinquent, be published in the newspapers in and about the camp, and of the particular state from which the offender came, or where he usually resides, after which it shall be deemed scandalous for an officer to associate with him.

Punishment for cowardice or fraud.

Article 86. The commanding officer of any post or

Courts martial

where the officers adequate to form a court martial are not in sufficient number at the post.

detachment, in which there shall not be a number of officers adequate to form a general court martial, shall, in cases which require the cognizance of such a court, report to the commanding officer of the department, who shall order a court to be assembled at the nearest post or detachment, and the party accused, with necessary witnesses, to be transported to the place where the said court shall be assembled.

Sentence of a court martial shall be by the concurrence of two-thirds.

Article 87. No person shall be sentenced to suffer death, but by the concurrence of two thirds of the members of a general court martial, nor except in the cases herein expressly mentioned; nor shall more than fifty lashes be inflicted on any offender, at the discretion of a court martial; and no officer, non-commissioned officer, soldier, or follower of the army, shall be tried a second time for the same offence.

Limitation of trials.

Article 88: No person shall be liable to be tried and punished by a general court martial for any offence which shall appear to have been committed more than two years before the issuing of the order for such trial, unless the person, by reason of having absented himself or some other manifest impediment, shall not have been amenable to justice within that period.

Power of pardon or mitigating sentences.

Article 89. Every officer authorized to order a general court martial, shall have power to pardon or mitigate any punishment ordered by such court, except the sentence of death, or of cashiering an officer; which, in the cases where he has authority (by article 65) to carry them into execution, he may suspend until the pleasure of the President of the United States can be known; which suspension, together with copies of the proceedings of the court martial, the said officer shall immediately transmit to the President, for his determination. And the colonel or commanding officer of the regiment or garrison, where any regimental or garrison court martial shall be held, may pardon or mitigate any punishment ordered by such court to be inflicted.

Duty of the judge advocate.

Article 90. Every judge advocate, or person officiating as such, at any general court martial, shall transmit, with as much expedition as the opportunity of time and distance of place can admit, the original proceedings and sentence of such court martial, to the Secretary of War, which said original proceedings and

sentence shall be carefully kept and preserved in the office of said secretary, to the end that the persons entitled thereto may be enabled, upon application to the said office, to obtain copies thereof.

The party tried by any general court martial, shall, upon demand thereof made by himself or by any person or persons in his behalf, be entitled to a copy of the sentence and proceedings of such court martial.

Copies of proceedings and sentence of court martial.

Article 91. In cases where the general or commanding officer may order a court of inquiry to examine into the nature of any transaction, accusation, or imputation against any officer or soldier, the said court shall consist of one or more officers, not exceeding three, and a judge advocate, or other suitable person as a recorder, to reduce the proceedings and evidence to writing, all of whom shall be sworn to the faithful performance of their duty. This court shall have the same power to summon witnesses as a court martial, and to examine them on oath. But they shall not give their opinion on the merits of the case, excepting they shall be thereto specially required. The parties accused shall also be permitted to cross examine and interrogate the witnesses, so as to investigate fully the circumstances in the question.

Courts of inquiry.

Article 92. The proceedings of a court of inquiry must be authenticated by the signature of the recorder and the president, and delivered to the commanding officer: and the said proceedings may be admitted as evidence by a court martial, in cases not capital, or extending to the dismissal of an officer, provided that the circumstances are such, that oral testimony cannot be obtained. But as courts of inquiry may be perverted to dishonorable purposes, and may be considered as engines of destruction to military merit, in the hands of weak and envious commandants, they are hereby prohibited, unless directed by the President of the United States, or demanded by the accused.

Authentication of proceedings of courts of inquiry.

Where proceedings of courts of inquiry are evidence.

Article 93. The judge advocate, or recorder, shall administer to the members the following oath:

“You shall well and truly examine and inquire, according to your evidence, into the matter now before you, without partiality, favour, affection, prejudice, or hope of reward. So help you God.”

Oath of members of courts of inquiry.

After which the president shall administer to the judge advocate, or recorder, the following oath:

"You A. B. do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court, and the evidence to be given in the case in hearing. So help you God."

The witnesses shall take the same oath as witnesses sworn before a court martial.

Effects of a commissioned officer who dies to be secured for his executors or administrators.

Article 94. When any commissioned officer shall die or be killed in the service of the United States, the major of the regiment, or the officer doing the major's duty in his absence, or in any post or garrison, the second officer in command, or the assistant military agent, shall immediately secure all his effects or equipage, then in camp or quarters, and shall make an inventory thereof, and forthwith transmit the same to the office of the department of war, to the end that his executors or administrators may receive the same.

The effects of non-commissioned officers or soldiers who die or shall be killed to be taken care of.

Article 95. When any non-commissioned officer, or soldier, shall die, or be killed in the service of the United States, the then commanding officer of the troop or company, shall, in the presence of two other commissioned officers, take an account of what effects he died possessed of, above his arms and accoutrements, and transmit the same to the office of the department of war; which said effects are to be accounted for, and paid to the representatives of such deceased non-commissioned officer or soldier. And in case any of the officers, so authorized to take care of the effects of deceased officers and soldiers, should, before they have accounted to their representatives for the same, have occasion to leave the regiment, or post, by preferment, or otherwise, they shall, before they be permitted to quit the same, deposit in the hands of the commanding officer, or of the assistant military agent, all the effects of such deceased non-commissioned officers and soldiers, in order that the same may be secured for, and paid to their respective representatives.

These articles to govern all officers, &c.

Article 96. All officers, conductors, gunners, matrosses, drivers, or other persons whatsoever, receiving pay, or hire, in the service of the artillery, or corps of engineers of the United States, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by courts martial, in like manner with the of-

ficers and soldiers of the other troops in the service of the United States.

Article 97. The officers and soldiers, of any troops, whether militia or others, being mustered and in pay of the United States, shall, at all times and in all places, when joined, or acting in conjunction with the regular forces of the United States, be governed by these rules and articles of war, and shall be subject to be tried by courts martial, in like manner with the officers and soldiers in the regular forces, save only that such courts martial shall be composed entirely of militia officers.

Officers and soldiers of the militia when in service to be governed by these articles.

Article 98. All officers, serving by commission from the authority of any particular state, shall, on all detachments, courts martial, or other duty, wherein they may be employed in conjunction with the regular forces of the United States, take rank, next after all officers of the like grade in said regular forces, notwithstanding the commissions of such militia or state officers may be elder than the commissions of the officers of the regular forces of the United States.

Rank of militia officers when serving with officers of the army.

Article 99. All crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles of war, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion.

Crimes not capital, and all disorders and neglects not mentioned in these articles to be taken cognizance of by court martial.

Article 100. The President of the United States shall have power to prescribe the uniform of the army.

Uniform of the army.

Article 101. The foregoing articles are to be read and published once in every six months, to every garrison, regiment, troop, or company, mustered or to be mustered in the service of the United States, and are to be duly observed and obeyed by all officers and soldiers who are, or shall be in said service.

Publication of these articles once in six months.

SEC. 2. *And be it further enacted,* That in time of war, all persons not citizens of, or owing allegiance to the United States of America, who shall be found lurking as spies, in or about the fortifications or encampments of the armies of the United States, or any of them, shall suffer death, according to the law and usage of nations, by sentence of a general court martial.

Persons lurking about fortifications as spies.

Rules and regulations, formerly in force, abolished.

SEC. 3. *And be it further enacted*, That the rules and regulations, by which the armies of the United States have here'ofore been governed, and the resolves of Congress thereunto annexed, and respecting the same, shall henceforth be void and of no effect, except so far as may relate to any transactions under them, prior to the promulgation of this act, at the several posts and garrisons respectively, occupied by any part of the army of the United States.

APPROVED, April 10, 1806.

April 10, 1806.

CHAP. XXI.—*An Act relating to bonds given by Marshals.*

Bond of the marshal shall be filed in the office of the clerk of the court, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bond heretofore given, or which may hereafter be given by the Marshal of any district, for the faithful performance of the duties of his office, shall be filed and recorded in the office of the clerk of the district court or circuit court, sitting within the district for which such marshal shall have been appointed, and copies thereof, certified by the clerk, under the seal of the said court, shall be competent evidence in any court of justice.

Suits may be instituted on the breach of the condition of the bond, &c.

SEC. 2. *And be it further enacted*, That it shall be lawful, in case of the breach of the condition of any such bond, for any person, persons, or body politic, thereby injured, to institute a suit upon such bond, in the name and for the sole use of such party, and thereupon to recover such damages, as shall be legally assessed, with costs of suit; for which execution may issue for such party in due form, and in case such party shall fail to recover in the suit, judgment shall be rendered and execution may issue for costs in favour of the defendant or defendants against the party who shall have instituted the suit; and the United States shall in no case be liable for the same.

Executions may issue on judgment, &c.

Bonds to remain as a security on judgments rendered, &c.

SEC. 3. *And be it further enacted*, That the said bonds shall, after any judgment or judgments rendered thereon, remain as a security, for the benefit of any person, persons, or body politic, injured by breach of the condition of the same, until the whole penalty shall have been recovered; and the proceedings shall be always in the same manner, and as herein before directed.

SEC. 4. *And be it further enacted*, That all suits on marshal's bonds, if the right of action has already accrued, shall be commenced and prosecuted within three years after the passage of this act, and not afterwards. And all such suits, in case the right of action shall accrue hereafter, shall be commenced and prosecuted within six years after the said right of action shall have accrued, and not afterwards; saving, nevertheless, the rights of infants, *feme coverts*, and persons *non compos mentis*, so that they sue within three years after their disabilities are removed.

Within what period suits are to be commenced, &c.

Saving of the rights of infants, &c.

APPROVED, April 10, 1806.

CHAP. XIII.—*An Act to extend the power of granting writs of injunctions to the judges of the district courts of the United States.*

Feb. 13, 1807.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, the judges of the district courts of the United States shall have as full power to grant writs of injunctions to operate within their respective districts, in all cases which may come before the circuit courts within their respective districts, as is now exercised by any of the judges of the supreme court of the United States, under the same rules, regulations and restrictions, as are prescribed by the several acts of Congress, establishing the judiciary of the United States, any law to the contrary notwithstanding: *Provided*, that the same shall not, unless so ordered by the circuit court, continue longer than to the circuit court next ensuing, nor shall an injunction be issued by a district judge, in any case where a party has had a reasonable time to apply to the circuit court for the writ.

Act of Sept. 24, 1789, ch. 20. A co-ordinate power of granting writs of injunction conferred upon the judges of the district courts in cases before the circuit courts of their districts.

Provided.

APPROVED, February 13, 1807.

CHAP. XXXIX.—*An Act authorizing the employment of the land and naval forces of the United States, in cases of insurrections.*

March 3, 1807.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases of insurrection, or obstruction to the laws, either of the United States, or of any

Land and naval forces to be employed for suppressing insurrections.

individual state or territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purpose, such part of the land or naval force of the United States, as shall be judged necessary, having first observed all the prerequisites of the law in that respect.

APPROVED, March 3, 1807.

Feb. 20, 1812.

CHAP. XXV.—*An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States.*

Act of March 1, 1817, ch. 30.
Commissioners to be appointed by the circuit courts of the U. States, for taking bail and affidavits, and the acknowledgments so taken to have the same effect as if taken before any judge of said court.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the circuit court of the United States, to be holden in any district in which the present provision, by law, for taking bail and affidavits in civil causes, (in cases where such affidavits are, by law, admissible) is inadequate, or on account of the extent of such district, inconvenient, to appoint such and so many discreet persons, in different parts of the district, as such court shall deem necessary, to take acknowledgments of bail and affidavits; which acknowledgments of bail and affidavits shall have the like force and effect as if taken before any judge of said court; and any person swearing falsely in and by any such affidavit, shall be liable to the same punishment as if the same affidavit had been made or taken before a judge of said court.

Fees for taking them.

SEC. 2. *And be it further enacted,* That the like fees shall be allowed for taking such bail and affidavit as are allowed for the like services by the laws of the state, in which any such affidavit or bail shall be taken.

Discretionary power to courts of the U. States, in cases of depositions in perpetuum rei memoriam.

SEC. 3. *And be it further enacted,* That in any cause before a court of the United States, it shall be lawful for such court, in its discretion, to admit in evidence any deposition taken in perpetuum rei memoriam, which would be so admissible in a court of the state wherein such cause is pending according to the laws thereof.

APPROVED, February 20, 1812.

CHAP. V.—*An Act concerning the District and Territorial Judges of the United States.*

Dec. 18, 1812.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter it shall be incumbent upon the district and territorial judges of the United States, to reside within the districts and territories respectively for which they are appointed, and that it shall not be lawful for any judge appointed under the authority of the United States, to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the injunction or prohibition of this act, shall be deemed guilty of a high misdemeanor.

APPROVED, December 18, 1812.

District and territorial judges to reside within their districts and not to exercise the profession of counsel or attorney, or to be engaged in the practice of the law.

CHAP. XVIII.—*An Act supplementary to an act entit'ed "An act to provide for calling forth the militia to execute the laws, suppress insurrections, and to repel invasions. and to repeal the act now in force for those purposes," and to increase the pay of volunteer and militia corps.*

Feb. 2, 1813.

[EXTRACT.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in every case in which a court martial shall have adjudged and determined a fine against any officer, non-commissioned officer, musician, or private, of the militia, for any of the causes specified in the act to which this act is a supplement, or in the fourth section of an act, entitled "An act to authorize a detachment from the militia of the United States;" all such fines so assessed, shall be certified to the comptroller of the treasury of the United States, in the same manner as the act to which this act is a supplement directed the same to be certified to the supervisor of the revenue.

1795, ch. 36.
Fines imposed by courts martial to be certified to the comptroller of the treasury.

SEC. 2. *And be it further enacted,* That the marshals shall pay all fines which have been levied and collected by them or their respective deputies, under the authority of the acts herein referred to, into the treasury of the United States, within two months after they shall have received the same, deducting five per centum for their own trouble; and in case of failure, it shall be the duty of the comptroller of the treasury

1806, ch. 32.
1812, ch. 55.

Marshals to pay fines within two months after collection into the treasury, deducting five per cent.

to give notice to the district attorney of the United States, who shall proceed against the said marshal in the district court by attachment for the recovery of the same.

APPROVED, February 2, 1813.

July 22. 1813.

CHAP. XIV.—*An Act concerning suits and costs in courts of the United States.*

Where several actions are brought against persons who might be legally sued in one action, costs can only be recovered as in one.

Costs to be recovered only in one libel when that is sufficient.

No more costs than on one libel or information for the same cause of forfeiture.

Proviso.
On a claim of property libelled, if the property is restored, the claimant shall only pay his own costs.

Causes may be consolidated, to avoid unnecessary costs or delay.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever there shall be several actions or processes against persons who might legally be joined in one action or process touching any demand or matter in dispute before a court of the United States or of the territories thereof, if judgment be given for the party pursuing the same, such party shall not thereon recover the costs of more than one action or process, unless special cause for several actions or processes shall be satisfactorily shown on motion in open court.

SEC. 2. *And be it further enacted,* That whenever proceedings shall be had on several libels against any vessel and cargo which might legally be joined in one libel before a court of the United States or of the territories thereof, there shall not be allowed thereon more costs than on one libel, unless special cause for libelling the vessel and cargo severally shall be satisfactorily shown as aforesaid. And in proceedings on several libels or informations against any cargo or parts of cargo or merchandise seized as forfeited for the same cause, there shall not be allowed by the court more costs than would be lawful on one libel or information, whatever may be the number of owners or consignees therein concerned: but allowance may be made on one libel or information for the costs incidental to several claims: *Provided,* That in case of a claim of any vessel or other property seized on behalf of the United States and libelled or informed against as forfeited under any of the laws thereof, if judgment shall pass in favour of the claimant, he shall be entitled to the same upon paying only his own costs.

SEC. 3. *And be it further enacted,* That whenever causes of like nature, or relative to the same question shall be pending before a court of the United States,

or of the territories thereof, it shall be lawful for the court to make such orders and rules concerning proceedings therein as may be conformable to the principles and usages belonging to courts for avoiding unnecessary costs or delay in the administration of justice, and accordingly causes may be consolidated as to the court shall appear reasonable. And if any attorney, proctor, or other person admitted to manage and conduct causes in a court of the United States or of the territories thereof, shall appear to have multiplied the proceedings in any cause before the court so as to increase costs unreasonably and vexatiously, such person may be required by order of court to satisfy any excess of costs so incurred.

Attorney or proctor to pay excess of costs if proceedings have been multiplied unreasonably.

APPROVED, July 22, 1813.

CHAP. LXXX.—*An Act in further addition to an act entitled “An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States.”*

April 18, 1814.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the officers of the militia provided for by the act, entitled “An act more effectually to provide for the national defence by establishing an uniform militia throughout the United States,” approved May the eighth, one thousand seven hundred and ninety-two, and by an act in addition to the said recited act, approved March the second, one thousand eight hundred and three, there shall be to each division, one Division Inspector, with the rank of Lieutenant Colonel, and one Division Quartermaster, with the rank of Major; to each brigade one Aid-de-camp, with the rank of Captain; and the Quartermasters of brigade heretofore provided for by law, shall have the rank of Captain. And it shall be incumbent on the said officers to do and perform all the duties which by law and military principles are attached to their offices respectively.

1795, ch. 36.

1792, ch. 33.

1802, ch. 15.

Additional officers authorized their rank,

and duties.

APPROVED, April 18, 1814.

March 22, 1816. CHAP. XXXII.—*An Act relative to evidence in cases of Naturalization.*

[EXTRACT.]

SEC. 2. *Provided, and be it enacted, * * **
 Residence of the applicant to be naturalized. And the residence of the applicant within the limits and under the jurisdiction of the United States for at least five years immediately preceding the time of such application shall be proved by the oath or affirmation of citizens of the United States; which citizens shall be named in the record as witnesses. And such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place or places where the applicant has resided for at least five years, as aforesaid, shall be stated and set forth, together with the names of such citizens in the record of the court admitting the applicant: otherwise the same shall not entitle him to be considered and deemed a citizen of the United States.

APPROVED, March 22, 1816.

April 20, 1816. CHAP. LXIV.—*An Act concerning field officers of the militia.*

[EXTRACT.]

Officers of the militia after May 4, 1816. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That from and after the first day of May next, instead of one lieutenant colonel commandant to each regiment, and one major to each battalion of the militia, as is provided by the act entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States," approved May the eighth, one thousand seven hundred and ninety-two, there shall be one colonel, one lieutenant colonel and one major to each regiment of the militia, consisting of two battalions. Where there shall be only one battalion, it shall be commanded by a major: * * * * *

APPROVED, April 20, 1816.

Act of May 8, 1792, ch. 33.

CHAP. XXX.—*An Act in addition to an act entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States."* March 1, 1817.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the commissioners who now are, or hereafter may be, appointed by virtue of the act, entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," are hereby authorized to take affidavits and bail in civil causes, to be used in the several district courts of the United States, and shall and may exercise all the powers that a justice or judge of any of the courts of the United States may exercise by virtue of the thirtieth section of the act, entitled "An act to establish the judicial courts of the United States."

Power of the commissioners appointed for the more convenient taking of affidavits and bail in civil causes extended.

Act of Feb. 20, 1812, ch. 25.

Act of 1789 ch. 20.

APPROVED March 1, 1817.

CHAP. LXXXIV.—*An Act to defray the expenses of the militia when marching to the places of rendezvous.* April 20, 1818.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the expenses incurred, or to be incurred, by marching the militia of any state or territory of the United States to their places of rendezvous, in pursuance of a requisition of the President of the United States, or which shall have been, or may be, incurred in cases of calls made by the authority of any state or territory, which shall have been, or may be, approved by him, shall be adjusted and paid in like manner as the expenses incurred after their arrival at such places of rendezvous, on the requisition of the President of the United States: *Provided,* That nothing herein contained shall be considered as authorizing any species of expenditure, previous to arriving at the place of rendezvous, which is not provided by existing laws to be paid for after their arrival at such place of rendezvous.

1795, ch. 36.
Expenses incurred by marching militia to places of rendezvous to be adjusted and paid in the same manner as expenses incurred after arrival.

Proviso.

APPROVED, April 20, 1818.

May 12, 1820.

CHAP. XCVII.—*An Act to establish an uniform mode of discipline and field exercises for the militia of the United States.*

[EXTRACT.]

1821, ch. 13, sec. 14.

The system of discipline and field exercise observed by the regular army to be observed by the militia.

Be it enacted by the Senate and House of Representatives of the United States of America, in congress assembled, That the system of discipline and field exercise which is and shall be ordered to be observed by the regular army of the United States, in the different corps of infantry, artillery, and riflemen, shall also be observed by the militia, in the exercises and discipline of the said corps, respectively, throughout the United States.

APPROVED, May 12, 1820.

March 3, 1821.

CHAP. LI.—*An Act to amend an act, entitled "An act for regulating processes in the courts of the United States."*

Act of May 8, 1792, ch. 36.
In suits in a district court, where the judge may be interested, &c. he must enter the fact on record, &c.

Proceedings to be certified to the next circuit court, &c.

Circuit court to take cognisance and proceed, &c.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in all suits and actions in any district court of the United States, in which it shall appear that the judge of such court is any ways concerned in interest, or has been of counsel for either party, or is so related to, or connected with, either party, as to render it improper for him, in his opinion, to sit on the trial of such suit or action, it shall be the duty of such judge, on application of either party, to cause the fact to be entered on the records of the court; and also, an order that an authenticated copy thereof, with all the proceedings in such suit or action, shall be forthwith certified to the next circuit court of the district; and if there be no circuit court in such district, to the next circuit court in the state; and if there be no circuit court in such state, to the most convenient circuit court in an adjacent state; which circuit court shall, upon such record being filed with the clerk thereof, take cognisance thereof, in the like manner as if such suit or action had been originally commenced in that court, and shall proceed to hear and determine the same accordingly; and the jurisdiction of such circuit court shall extend to all such cases so removed, as were cognisable in the district from which the same was removed.

APPROVED, March 3, 1821.

CHAP. VI.—*An Act to enable the proprietors of lands held by titles derived from the United States to obtain copies of papers from the proper department, and to declare the effect of such copies.*

Jan. 23, 1823.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any person claiming to be interested in, or entitled to land, under any grant or patent from the United States, shall apply to the Treasury Department for copies of papers filed, and remaining therein, in any wise affecting the title to such land, it shall be the duty of the Secretary of the Treasury to cause such copies to be made out and authenticated, under his hand and seal, for the person so applying, and such copies, so authenticated, shall be evidence equally as the original papers.

The Secretary of the Treasury to cause authentic copies of papers filed, &c., to be made, &c., and these copies to be equal evidence as the original papers.

APPROVED, January 23, 1823.

CHAP. CLXIX.—*An Act granting to the counties or parishes of each state and territory of the United States, in which the public lands are situated, the right of pre-emption to quarter sections of land, for seats of justice within the same.*

May 26, 1824.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there be granted to the several counties or parishes of each state and territory of the United States, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one quarter section of land, in each of the counties or parishes, of said states and territories, in trust for said counties or parishes, respectively, for the establishment of seats of justice therein: *Provided,* The proceeds of the sale of each of said quarter sections shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same: *And provided, further,* That the seat of justice for said counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

The right of pre-emption to one quarter section of land granted to the several counties of each state and territory of the United States, where there are public lands, for certain purposes.

Proviso.

Proviso.

SEC. 2. *And be it further enacted,* That so much of such acts, heretofore passed, granting to states rights

Parts of other acts repealed.

of pre-emption, for county or parish purposes, as require said seats of justice to be continued at or near the centre of each of said counties or parishes, be, and the same is hereby, repealed.

APPROVED, May 26, 1824.

May 26, 1824.

CHAP. CLXXXVI.—*An Act in further addition to "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."*

[EXTRACTS.]

Act of April 14, 1802, ch. 28.
Conditions on which an alien, being a free white person and a minor, may become a citizen of the United States.

Proviso.

Declaration required by the first section of the former act to be valid on certain conditions.

A declaration of intention made two years before

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That any alien, being a free white person and a minor, under the age of twenty-one years, who shall have resided in the United States three years next preceding his arriving at the age of twenty-one years, and who shall have continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he shall have resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of the first section of the act to which this is in addition, three years previous to his admission: *Provided,* Such alien shall make the declaration required therein at the time of his or her admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for three years next preceding, it has been the bona fide intention of such alien to become a citizen of the United States; and shall, in all other respects, comply with the laws in regard to naturalization..

SEC. 3. *And be it further enacted,* That the declaration required by the first condition specified in the first section of the act, to which this is in addition, shall, if the same has been bona fide made before the clerks of either of the courts in the said condition named, be as valid as if it had been made before the said courts, respectively.

SEC. 4. *And be it further enacted,* That a declaration by any alien, being a free white person, of his intended application to be admitted a citizen of the Uni-

ted States, made in the manner and form prescribed in the first condition specified in the first section of the act to which this is in addition, two years before his admission, shall be a sufficient compliance with said condition; any thing in the said act, or in any subsequent act, to the contrary notwithstanding.

APPROVED, May 26, 1824.

his admission shall be sufficient.

CHAP. LXV.—*An Act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes.*

March 3, 1825.

[EXTRACTS.]

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That if any person or persons, within any fort, dock-yard, navy-yard, arsenal, armory, or magazine, the site whereof is ceded to, and under the jurisdiction of, the United States, or on the site of any lighthouse, or other needful building belonging to the United States, the site whereof is ceded to them, and under their jurisdiction, as aforesaid, shall, wilfully and maliciously, burn any dwelling-house, or mansion-house, or any store, barn, stable, or other building, parcel of any dwelling or mansion-house, every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, suffer death.

Act of 1790, ch. 9.
Any person within any fort, &c., who shall maliciously burn any dwelling-house, &c., to suffer death.
1792, ch. 16, sec. 16.
1799, ch. 1.
1800, ch. 35.

SEC. 2. *And be it further enacted,* That if any person or persons, in any of the places aforesaid, shall, wilfully and maliciously, set fire to, or burn, any arsenal, armory, magazine, rope-walk, ship-house, warehouse, block-house, or barrack, or any store-house, barn, or stable, not parcel of a dwelling-house, or any other building not mentioned in the first section of this act, or any ship or vessel, built, or building or begun to be built, or repairing, or any light-house, or beacon, or any timber, cables, rigging, or other materials for building, repairing, or fitting out, ships, or vessels, or any pile of wood, boards, or other lumber, or any military, naval, or victualling stores, arms, or other munitions of war, every person so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished

Any person wilfully setting fire to, &c. any arsenal, &c., to be fined and imprisoned.

by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

Any offence committed in any of the aforesaid places, &c., to be dealt with according to the laws of the state.

SEC. 3. *And be it further enacted*, That, if any offence shall be committed in any of the places aforesaid, the punishment of which offence is not specially provided for by any law of the United States, such offence shall, upon a conviction in any court of the United States having cognisance thereof, be liable to, and receive the same punishment as the laws of the state in which such fort, dock-yard, navy-yard, arsenal, armory, or magazine, or other place, ceded as aforesaid, is situated, provide for the like offence when committed within the body of any county of such state.

Of any officer of the United States who is guilty of extortion.

SEC. 12. *And be it further enacted*, That, if any officer of the United States shall be guilty of extortion, under, or by colour of his office, every person so offending shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding one year, according to the aggravation of the offence.

Of any person in any case, matter, &c., who, when an oath or affirmation, shall be required to be taken or administered, under any law of the United States, shall wilfully swear falsely.

1790, ch. 9, sec. 19.

SEC. 13. *And be it further enacted*, That, if any person, in any case, matter, hearing, or other proceeding, when an oath or affirmation shall be required to be taken or administered under or by any law or laws of the United States, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person, so offending, shall be deemed guilty of perjury, and shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labour, not exceeding five years, according to the aggravation of the offence. And if any person or persons shall knowingly or willingly procure any such perjury to be committed, every person so offending shall be deemed guilty of subornation of perjury, and shall on conviction thereof, be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labour, not exceeding five years, according to the aggravation of the offence.

When any person is arraigned for any offence, not capital, and re-

SEC. 14. *And be it further enacted*, That, if any person, upon his or her arraignment upon any indictment before any court of the United States for any

offence, not capital, shall stand mute, or will not answer or plead to such indictment, the court shall, notwithstanding, proceed to the trial of the person, so standing mute, or refusing to answer or plead, as if he or she had pleaded not guilty, and upon a verdict being returned by the jury, may proceed to render judgment accordingly. And the trial of all offences which shall be committed upon the high seas or elsewhere, out of the limits of any state or district, shall be in the district where the offender is apprehended, or into which he may be first brought.

SEC. 15. *And be it further enacted*, That, in every case where any criminal convicted of any offence against the United States shall be sentenced to imprisonment and confinement to hard labour, it shall be lawful for the court by which the sentence is passed, to order the same to be executed in any state prison, or penitentiary within the district where such court is holden; the use of which prison or penitentiary may be allowed or granted by the legislature of such state for such purposes; and the expenses attendant upon the execution of such sentence, shall be paid by the United States.

SEC. 17. *And be it further enacted*, That, if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any paper, writing, or instrument, in imitation of, or purporting to be, an indent, certificate of the public stock, or debt, treasury note, or other public security of the United States, or any letters patent, issued or granted by the President of the United States, or any bill, check, or draft for money drawn by, or on the treasury of the United States, or by, or on, any other public officer or agent of the United State, duly authorized to make, draw, accept, or pay the same, on behalf and for account of the United States, or if any person or persons shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any such false, forged, or counterfeited paper, writing, or instrument, knowing the same to be false, forged, or counterfeited, with intent to defraud the United States, or any body politic or corporate, or any other person or persons whatsoever; or if any per-

fuse to answer to such indictment, judgment shall be rendered accordingly.
1790, ch. 9, sec. 29.

In every case where a criminal is convicted, the court which shall pass the sentence shall order the same to be executed in any state prison, &c.
1790, ch. 9, sec. 23.

Forgery of treasury notes, or other public security of the United States.
Act of April 30, 1790, ch. 9, sec. 14.

son or persons shall falsely alter any indent, certificate of the public stock, or debt, treasury note, or other public security of the United States, or any letters patent, issued or granted by the President of the United States, or any bill, check, or draft for money drawn by or on the treasury of the United States, or any other public officer or agent of the United States, duly authorized to make, draw, accept, or pay such bill, check, or draft, or if any person or persons shall pass, utter, or publish, or attempt to pass, utter, or publish, as true and unaltered, any such falsely altered indent, certificate, treasury note, or other public security, letters patent, or bill, check, or draft, knowing the same to be falsely altered, with intent to defraud the United States, or any body politic or corporate, or any person or persons whatsoever, every such person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

Forgery of letters of attorney, certificates of stock of the United States, or certificates of stock of the Bank of the United States.

SEC. 18. *And be it further enacted*, That, if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any paper, writing, or instrument, in imitation of, or purporting to be, any letter of attorney, or other authority or instrument to assign, transfer, sell, or convey any share or sum in the public stock or debt of the United States, or in the capital stock of the president, directors, and company of the Bank of the United States, or to receive any annuity or annuities, dividend or dividends, due or to become due on any such stock or debt; or to receive any pension, prize money, wages, or other debt or sum of money due, or to become due from the United States; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or willingly aid or assist in forging or counterfeiting the name or names of any of the holders or proprietors of any such public stock or debt, or of any person entitled to any such annuity, dividend, pension, prize money, wages, or other debt or sum of money as aforesaid, in or to any such pretended letter of attorney, authority, or instru-

ment; or shall, knowingly and fraudulently, demand, or endeavour to have or obtain such share or sum in such public stock or debt, or capital stock of the said bank, or to have any part thereof transferred, assigned, sold, or conveyed, or such annuity, dividend, pension, prize money, wages, or other debt or sum of money, or any part thereof, to be received or paid, by virtue of any such false, forged, or counterfeited letter of attorney, authority, or instrument; or shall falsely and deceitfully personate any true or real proprietor or holder of such share or sum in such public stock or debt, or capital stock of the said bank, or any person entitled to such annuity, dividend, pension, prize money, wages, or other debt or sum of money, as aforesaid, and thereby transferring or endeavouring to transfer such public stock or debt or capital stock of the said bank, or receiving, or endeavouring to receive the money of such true or lawful holder or proprietor thereof, or the money of such person or persons, really and truly entitled to receive such annuity, dividend, pension, prize money, wages, or other debt, or sum of money, as aforesaid, as if such offender were the true and lawful owner thereof, and entitled thereto; every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

SEC. 20. *And be it further enacted*, That, if any person, or persons, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any coin, in the resemblance or similitude of the gold or silver coin, which has been, or hereafter may be, coined at the mint of the United States; or in the resemblance or similitude of any foreign gold or silver coin which by law now is, or hereafter may be made current in the United States; or shall pass, utter, publish, or sell or attempt to pass, utter, publish, or sell, or bring into the United States; from any foreign place, with intent to pass, utter, publish, or sell, as true, any such false, forged, or counterfeited coin, knowing the same to be false, forged,

Forging of gold or silver coin.

1806, ch. 49.

or counterfeited, with intent to defraud any body politic, or corporate, or any other person or persons, whatsoever; every person, so offending, shall be deemed guilty of felony, and shall on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment, and confinement to hard labour, not exceeding ten years, according to the aggravation of the offence.

Forgery of copper coin.

SEC. 21. *And be it further enacted*, That, if any person, or persons, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any coin, in the resemblance or similitude of any copper coin which has been, or hereafter may be, coined at the mint of the United States; or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States, from any foreign place, with intent to pass, utter, publish, or sell, as true, any such false, forged, or counterfeited coin, with intent to defraud any body politic, or corporate, or any other person, or persons, whatsoever; every person so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding one thousand dollars, and by imprisonment, and confinement to hard labour, not exceeding three years.

Nothing in this act to be construed so as to deprive the courts of individual states of jurisdiction.

SEC. 26. *And be it further enacted*, That nothing in this act contained shall be construed to deprive the courts of the individual states, of jurisdiction, under the laws of the several states, over offences made punishable by this act.

APPROVED, March 3, 1825.

May 20, 1826.

CHAP. LXXV.—*An Act to allow compensation to such witnesses, on the part of the United States, as may be imprisoned, to compel their attendance in court on account of their inability to give security in a recognizance.*

The marshals to allow compensation to persons imprisoned on account of inability to give security, &c.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the marshals for the several districts and territories of the United States be authorized to pay such persons as may have been, or shall hereafter be, imprisoned on account of inability to give security in a

recognizance for their attendance as witnesses on behalf of the United States, the same sum, for each day's imprisonment, as is provided by law for witnesses actually attending court under process: *Provided*, The said allowance be first fixed and certified by the proper judge, as in case of jurors.

APPROVED, May 20, 1826.

CHAP. CXXIV.—*An Act relative to the issuing of executions, in the district and circuit courts of the United States, in certain cases.* May 20, 1826.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all writs of execution, upon any judgment or decree, obtained in any of the district or circuit courts of the United States, in any one state, which shall have been, or may hereafter be, divided into two judicial districts, may run and be executed, in any part of such state; but shall be issued from, and made returnable to, the court where the judgment was obtained, any law to the contrary notwithstanding.

APPROVED, May 20, 1826.

Writs of execution, where the district or circuit courts in any one state have been, or may be, divided into two judicial districts, may be executed in any part of such state.

CHAP. IV.—*An Act to provide for taking evidence in the courts of the United States in certain cases.* Jan. 24, 1827.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a commission shall be issued, by any court of the United States, for taking the testimony of a witness or witnesses, at any place within the United States, or the territories thereof, it shall be lawful for the clerk of any court of the United States, for the district or territory within which such place may be, and he is hereby enjoined and required, upon the application of either of the parties in the suit, cause, action, or proceeding, in which such commission shall have been issued, his, her, or their agent or agents, to issue a subpoena, or subpoenas, for such witness or witnesses, residing or being within the said district or territory, as shall be named in the said commission, commanding such witness or witnesses to appear and testify before the commissioner or commis-

Whenever a commission shall be issued by any court of the United States, for taking the testimony of a witness or witnesses, at any place within the United States, or the territories thereof, it shall be lawful for the clerk of any court of the United States, for the district or territory within which such place may be, to issue a subpoena, or subpoenas, for such witness or witnesses named in said commission.

sioners, in such commission named, at a time and place in the subpoena to be stated, and if any witness, after being duly served with such subpoena, shall refuse or neglect to appear, or after appearing, shall refuse to testify, (not being privileged from giving testimony,) such refusal or neglect being proved to the satisfaction of any judge of the court, whose clerk shall have issued such subpoena or subpoenas, he may thereupon proceed to enforce obedience to the process, or to punish the disobedience, in like manner as any court of the United States may do in case of disobedience to process of *subpoena ad testificandum*, issued by such court; and the witness or witnesses, in such cases, shall be allowed the same compensation as is allowed to witnesses attending the courts of the United States: *Provided*, That no witness shall be required to attend at any place out of the county in which he may reside, nor more than forty miles from his place of residence, to give his or her deposition, under this law.

proviso.

Any Judge of the United States to issue a subpoena duces tecum, in certain cases.

SEC. 2. *And be it further enacted*, That whenever either of the parties in such suit, cause, action, or proceeding, shall apply to any judge of a court of the United States, in the district or territory of the United States, in which the place for taking such testimony may be, for a *subpoena duces tecum*, commanding the witness, therein to be named, to appear and testify before the said commissioner or commissioners, at the time and place in the said subpoena to be stated, and also to bring or carry with him or her, and produce to such commissioner or commissioners, any paper, writing or written instrument, or book, or other document supposed to be in the possession or power of such witness, such judge being satisfied, by the affidavit of the person applying, or otherwise, that there is reason to believe that such paper, writing, written instrument, book, or other document, is in the possession or power of the witness, and that the same, if produced, would be competent and material evidence for the party applying therefor, may order the clerk of the court, of which he is a judge, to issue such *subpoena duces tecum*, accordingly, and if such witness, after being duly served with such subpoena duces tecum, shall fail to produce any such paper, writing, written instrument, book, or other document, being

in the possession or power of such witness, and described in such *subpœna duces tecum*, before, and to such commissioner or commissioners, at the time and place in such *subpœna* stated, such failure being proved to the satisfaction of the said judge, he may proceed to enforce obedience to the said process of *subpœna duces tecum*, or to punish the disobedience, in like manner as any court of the United States may do in case of disobedience to a like process, issued by such court; and when any such paper, writing, written instrument, book, or other document, shall be produced to such commissioner or commissioners, he or they shall, at the cost of the party requiring the same cause to be made, a fair and correct copy thereof, or of so much thereof as shall be required by either of the parties: *Provided*, that no witness shall be deemed guilty of contempt for disobeying any *subpœna* directed to him by virtue of this act, unless his fees for going to, returning from, and one day's attendance at the place of examination, shall be paid or tendered to him at the time of the service of the *subpœna*.

Provided.

APPROVED, January 24, 1827.

CHAP. LXVIII.—*An Act further to regulate processes in the courts of the United States.*

May 19, 1825.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the forms of mesne process, except the style, and the forms and modes of proceeding in suits in the courts of the United States, held in those states admitted into the Union since the twenty-ninth day of September, in the year seventeen hundred and eighty-nine, in those of common law, shall be the same in each of the said states, respectively, as are now used in the highest court, of original and general jurisdiction of the same, in proceedings in equity, according to the principles, rules, and usages, which belong to courts of equity, and in those of admiralty and maritime jurisdiction, according to the principles, rules, and usages, which belong to courts of admiralty, as contradistinguished from courts of common law, except so far as may have been otherwise provided for by acts of Congress; subject, however, to such alterations and

Act of March 3, 1821, ch. 51.
1842, ch. 109.
Forms of mesne process, except the style, and the forms and modes of proceeding in suits in courts of United States admitted into the Union since 29th Sept. 1789.

Subject, however to such alterations, &c.

additions, as the said courts of the United States respectively shall, in their discretion, deem expedient, or to such regulations as the Supreme Court of the United States shall think proper, from time to time, by rules, to prescribe to any circuit or district court concerning the same.

Where judgments are a lien upon the property of the defendant.

SEC. 2. *And be it further enacted*, That in any one of the United States, where judgments are a lien upon the property of the defendant, and where, by the laws of such state, defendants are entitled in the courts thereof, to an imparlance of one term or more, defendants, in actions in the courts of the United States, holden in such state, shall be entitled to an imparlance of one term.

When writs of execution and other final process issued on judgments, &c., rendered in any of the courts of the United States, &c.

SEC. 3. *And be it further enacted*, That writs of execution and other final process issued on judgments and decrees, rendered in any of the courts of the United States, and the proceedings thereupon shall be the same, except their style, in each state, respectively, as are now used in the courts of such state, saving to the courts of the United States in those states, in which there are not courts of equity, with the ordinary equity jurisdiction, the power of prescribing the mode of executing their decrees in equity by rules of court: *Provided, however*, That it shall be in the power of the courts, if they see fit in their discretion, by rules of court, so far to alter final process in said courts as to conform the same to any change which may be adopted by the legislatures of the respective states for the state courts.

Proviso.

APPROVED, May 19, 1828.

May 29, 1830.

CHAP. CLXIII.—*An Act to protect the surveyors of the public lands of the United States, and to punish persons guilty of interrupting and hindering, by force, surveyors in the discharge of their duty.*

A misdemeanor to interrupt surveys, &c.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That any person who shall hereafter, in any manner, by threats or force, interrupt, hinder, or prevent, the surveying of the public lands, of the United States, or of any private land claim, which has, or may be confirmed by the United States, or the authority thereof, by the persons authorized to survey the same, in

conformity with the instructions of the commissioner of the general land office, or the principal surveyors in any of the districts, in any state or territory, shall be considered and adjudged to be guilty of a misdemeanor, and upon conviction in any district or circuit court of the United States, in any state or territory having jurisdiction of the same, shall be fined a sum not less than fifty dollars, nor more than three thousand dollars, and be imprisoned for a period of time, not less than one nor more than three years.

Punishment.

SEC. 2. *And be it further enacted*, That, whenever the President of the United States shall be satisfied that forcible opposition has been offered, or will likely be offered, to any surveyor or deputy surveyor, or assistant surveyor, in the discharge of his or their duties, in surveying the public lands of the United States, it shall and may be lawful for the President to order the Marshal of the state or district, by himself or deputy, to attend such surveyor, deputy, or assistant surveyor, with sufficient force to protect such officer in the execution of his duty as surveyor, and to remove force should any be offered.

Force to be re-
pelled.

APPROVED, May 29, 1830.

CHAP. CLXXIX.—*An Act to alter and amend the sixty-fifth article of the first section of an act, entitled "An act for establishing rules and articles for the government of the armies of the United States," passed the tenth of April, one thousand eight hundred and six.*

May 29, 1830.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, whenever a general officer commanding an army, or a colonel commanding a separate department, shall be the accuser or prosecutor of any officer in the army of the United States, under his command; the general court martial for the trial of such officer shall be appointed by the President of the United States.

Act of April 10,
1806, ch. 20.
Courts martial in
certain cases to
be appointed by
President of Uni-
ted States.

SEC. 2. *And be it further enacted*, That the proceedings and sentence of the said court shall be sent directly to the Secretary of War, to be by him laid before the President for his confirmation, or approval, or orders in the case.

SEC. 3. *And be it further enacted*, That so much of

Repeal of part of the 65th article of the first section of the act of April 10, 1806, ch. 20.

the sixty-fifth article of the first section of "An act for establishing rules and articles for the government of the armies of the United States," passed on the tenth of April, eighteen hundred and six, as is repugnant hereto, be, and the same is hereby, repealed.

APPROVED, May 29, 1830.

May 29, 1830.

CHAP. CLXXXIII.—*An Act to exempt deserters, in time of peace, from the punishment of death.*

Desertion in time of peace not be punished with death.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the passage of this act, no officer or soldier in the army of the United States, shall be subject to the punishment of death, for desertion in time of peace.

APPROVED, May 29, 1830.

March 2, 1831.

CHAP. XCIX.—*An Act declaratory of the law concerning contempts of court.*

Cases for summary proceedings.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the power of the several courts of the United States to issue attachments and inflict summary punishments for contempts of court, shall not be construed to extend to any cases except the misbehaviour of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehaviour of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

Cases for indictment.

SEC. 2. *And be it further enacted,* That if any person or persons shall, corruptly, or by threats or force, endeavour to influence, intimidate, or impede any juror, witness, or officer, in any court of the United States, in the discharge of his duty, or shall, corruptly, or by threats or force, obstruct, or impede, or endeavour to obstruct or impede, the due administration of justice therein, every person or persons, so offending, shall be liable to prosecution therefor, by indictment, and

shall, on conviction thereof, be punished, by fine not exceeding five hundred dollars, or by imprisonment, not exceeding three months, or both, according to the nature and aggravation of the offence.

APPROVED, March 2, 1831.

CHAP. LXVI.—*An Act to authorize the judges of the courts of the United States to take bail of claimants of property seized, and perform other acts in vacation.* April 5, 1832.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in any cause of admiralty and maritime jurisdiction, or other case of seizure, depending in any court of the United States, any judge of the said court, in vacation, shall have the same power and authority to order any vessel, or cargo, or other property, to be delivered to the claimants, upon bail or bond, under the statute, as the case may be, or to be sold when necessary, as the said court now has in term time, and to appoint appraisers, and exercise every other incidental power necessary to the complete execution of the authority herein granted; and the said recognisance of bail or bond, under such order, may be executed before the clerk upon the party's producing the certificate of the collector of the district, of the sufficiency of the security offered; and the same proceedings shall be had in case of said order of delivery, or of sale, as are now had in like cases when ordered in term time: *Provided,* That upon every such application, either for an order of delivery or of sale, the collector and the attorney of the district shall have reasonable notice in cases of the United States, and the party or counsel in all other cases.

Judge authorized, &c. to deliver vessel, &c. to claimant.

Bond to be executed before clerk, &c.

Proviso.

APPROVED, April 5, 1832.

CHAP. CLXI.—*An Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.* June 30, 1831.

[EXTRACTS.]

SEC. 2. *And be it further enacted,* That no person shall be permitted to trade with any of the Indians, (in the Indian country) without a license therefor, from a superintendent of Indian affairs, or Indian agent, or

Persons trading with Indians to be licensed.

sub-agent, which license shall be issued for a term not exceeding two years for the tribes east of the Mississippi, and not exceeding three years for the tribes west of that river. And the person applying for such license shall give bond in a penal sum not exceeding five thousand dollars, with one or more sureties, to be approved by the person issuing the same, conditioned that such person will faithfully observe all the laws and regulations made for the government of trade and intercourse with the Indian tribes, and in no respect violate the same. And the superintendent of the district shall have power to revoke and cancel the same, whenever the person licensed shall, in his opinion, have transgressed any of the laws or regulations provided for the government of trade and intercourse with the Indian tribes, or that it would be improper to permit him to remain in the Indian country. And no trade with the said tribes shall be carried on within their boundary, except at certain suitable and convenient places, to be designated from time to time by the superintendents, agents, and sub-agents, and to be inserted in the license. And it shall be the duty of the persons granting or revoking such licenses, forthwith to report the same to the commissioner of Indian affairs, for his approval or disapproval.

Licenses may be refused, or, if granted, may be revoked.

SEC. 3. *And be it further enacted*, That any superintendent or agent may refuse an application for a license to trade, if he is satisfied that the applicant is a person of bad character, or, that it would be improper to permit him to reside in the Indian country, or if a license, previously granted to such applicant, has been revoked, or a forfeiture of his bond decreed. But an appeal may be had from the agent or the superintendent, to the commissioner of Indian affairs; and the President of the United States shall be authorized, whenever in his opinion the public interest may require the same, to prohibit the introduction of goods, or of any particular article, into the country belonging to any Indian tribe, and to direct all licences to trade with such tribe to be revoked, and all applications therefor to be rejected; and no trader to any other tribe shall, so long as such prohibition may continue, trade with any Indians of or for the tribe against which such prohibition is issued.

SEC. 4. *And be it further enacted*, That any person other than an Indian who shall attempt to reside in the Indian country as a trader, or to introduce goods, or to trade therein without such license, shall forfeit all merchandise offered for sale to the Indians, or found in his possession, and shall moreover forfeit and pay the sum of five hundred dollars.

Forfeiture of goods and fine for trading without license.

SEC. 5. *And be it further enacted*, That no license to trade with the Indians shall be granted to any persons except citizens of the United States: *Provided*, That the President shall be authorized to allow the employment of foreign boatmen and interpreters, under such regulations as he may prescribe.

Citizens only to be licensed.

Proviso.

SEC. 6. *And be it further enacted*, That if a foreigner shall go into the Indian country without a passport from the War Department, the superintendent, agent, or sub-agent of Indian affairs, or from the officer of the United States commanding the nearest military post on the frontiers, or shall remain intentionally therein after the expiration of such passport, he shall forfeit and pay the sum of one thousand dollars; and such passport shall express the object of such person, the time he is allowed to remain, and the route he is to travel.

Foreigners to obtain passports to go into the Indian country.

SEC. 7. *And be it further enacted*, That if any person other than an Indian shall, within the Indian country, purchase or receive of any Indian, in the way of barter, trade, or pledge, a gun, trap, or other article commonly used in hunting, any instrument of husbandry or cooking utensils of the kind commonly obtained by the Indians in their intercourse with the white people, or any article of clothing, except skins or furs, he shall forfeit and pay the sum of fifty dollars.

Indians only to barter with Indians.

SEC. 8. *And be it further enacted*, That if any person, other than an Indian, shall, within the limits of any tribe with whom the United States shall have existing treaties, hunt, or trap, or take and destroy, any peltries of game, except for subsistence in the Indian country, such person shall forfeit the sum of five hundred dollars, and forfeit all the traps, guns, and ammunition in his possession, used or procured to be used for that purpose, and peltries so taken.

No other person than Indians to trap in their limits.

SEC. 9. *And be it further enacted*, That if any person shall drive, or otherwise convey any stock of hor-

Cattle not to be driven for forage on Indian lands.

ses, mules, or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of such tribe, such person shall forfeit the sum of one dollar for each animal of such stock.

Intruders may be removed.

SEC. 10. *And be it further enacted*, That the superintendent of Indian affairs, and Indian agents and sub-agents, shall have authority to remove from the Indian country all persons found therein contrary to law; and the President of the United States is authorized to direct the military force to be employed in such removal.

Settlers may be driven off by military force.

SEC. 11. *And be it further enacted*, That if any person shall make a settlement on any lands belonging, secured, or granted by treaty with the United States to any Indian tribe, or shall survey or shall attempt to survey such lands, or designate any of the boundaries by marking trees, or otherwise, such offender shall forfeit and pay the sum of one thousand dollars. And it shall, moreover, be lawful for the President of the United States to take such measures, and to employ such military force, as he may judge necessary to remove from the lands as aforesaid any such person as aforesaid.

Purchases or grants from Indians invalid.

SEC. 12. *And be it further enacted*, That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the constitution. And if any person, not employed under the authority of the United States, shall attempt to negotiate such treaty or convention, directly or indirectly, to treat with any such nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, such person shall forfeit and pay one thousand dollars: *Provided, nevertheless*, That it shall be lawful for the agent or agents of any state who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States appointed to hold the same, to propose to, and adjust with the Indians, the compensation to be made for their claim to lands within such state, which shall be extinguished by treaty.

Provided.

SEC. 13. *And be it further enacted,* That if any citizen or other person residing within the United States or the territory thereof, shall send any talk, speech, message, or letter to any Indian nation, tribe, chief, or individual, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquility of the United States, he shall forfeit and pay the sum of two thousand dollars.

Penalty for sending any talk, &c. to disturb the peace.

SEC. 14. *And be it further enacted,* That if any citizen, or other person, shall carry or deliver any such talk, message, speech, or letter, to or from any Indian nation, tribe, chief, or individual, from or to any person or persons whatsoever, residing within the United States, or from or to any subject, citizen, or agent of any foreign power or state, knowing the contents thereof, he shall forfeit and pay the sum of one thousand dollars.

Persons carrying any such talk, &c. fined.

SEC. 15. *And be it further enacted,* That if any citizen or other person, residing or living among the Indians, or elsewhere within the territory of the United States, shall carry on a correspondence, by letter or otherwise, with any foreign nation or power, with an intent to induce such foreign nation or power to excite any Indian nation, tribe, chief, or individual, to war against the United States, or to the violation of any existing treaty; or in case any citizen or other person shall alienate, or attempt to alienate, the confidence of any Indian or Indians from the government of the United States, he shall forfeit the sum of one thousand dollars.

Persons corresponding with foreign powers, with similar intent, to be fined.

SEC. 16. *And be it further enacted,* That where, in the commission, by a white person, of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured, or destroyed. And if such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the treasury of the United States: *Provided,* That no such Indian

Property of friendly Indians injured or destroyed to be paid for in twice its value.

Proviso.

shall be entitled to any payment, out of the treasury of the United States, for any such property, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence: *And provided, also,* That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the treasury, as aforesaid.

Proviso.

Indemnification to be made for property taken or destroyed in certain cases.

SEC. 17. *And be it further enacted,* That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any state or territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the commissioner of Indian affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and, in the mean time, in respect to the property so taken, stolen or destroyed, the United States guaranty, to the party so injured, an eventual indemnification: *Provided,* That, if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided, also,* That, unless such claim shall be presented within three years after the commission of the injury, the same shall be barred. And if the nation or tribe to which such Indian may belong, receive an annuity from the United States, such claim shall, at the next

Proviso.

Proviso.

payment of the annuity, be deducted therefrom, and paid to the party injured; and, if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the treasury of the United States: *Provided*, that nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended.

Proviso.

SEC. 18. *And be it further enacted*, That the superintendents, agents, and sub-agents, within their respective districts, be, and are hereby, authorized and empowered to take depositions of witnesses touching any depredations, within the purview of the two preceding sections of this act, and administer an oath to the deponents.

Superintendents, &c., may take depositions.

SEC. 19. *And be it further enacted*, That it shall be the duty of the superintendents, agents, and sub-agents, to endeavour to procure the arrest and trial of all Indians accused of committing any crime, offence, or misdemeanor, and all other persons who may have committed crimes or offences within any state or territory, and have fled into the Indian country, either by demanding the same of the chiefs of the proper tribe, or by such other means as the President may authorize; and the President may direct the military force of the United States to be employed in the apprehension of such Indians, and also, in preventing or terminating hostilities between any of the Indian tribes.

Arrest and trial of accused Indians.

SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, or give, barter, or dispose of, any spirituous liquor or wine to an Indian, (in the Indian country,) such person shall forfeit and pay the sum of five hundred dollars; and if any person shall introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department, such person shall forfeit and pay a sum not exceeding three hundred dollars; and if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect, or is informed, that any white person or Indian is about to introduce, or has introduced, any spirituous liquor or wine into the Indian country, in violation of the provisions of this,

Penalty for disposing of spirituous liquors to Indians.

Search may be made for such liquors.

Liquors may be destroyed.

Penalty for setting up a distillery.

In trials about property, burden of proof to rest on the white person.

Apprehension of persons violating the provisions of this act.

section, it shall be lawful for such superintendent, Indian agent, or sub-agent, or military officer, agreeably to such regulations as may be established by the President of the United States, to cause the boats, stores, packages, and places of deposit of such person to be searched, and if any such spirituous liquor or wine is found, the goods, boats, packages, and peltries of such persons shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the use of the informer, and the other half to the use of the United States; and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person, in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, excepting military supplies as mentioned in this section.

SEC. 21. *And be it further enacted*, That if any person whatever shall, within the limits of the Indian country, set up or continue any distillery for manufacturing ardent spirits, he shall forfeit and pay a penalty of one thousand dollars; and it shall be the duty of the superintendent of Indian affairs, Indian agent, or sub-agent, within the limits of whose agency the same shall be set up or continued, forthwith to destroy and break up the same; and it shall be lawful to employ the military force of the United States in executing that duty.

SEC. 22. *And be it further enacted*, That in all trials about the right of property in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person, whenever the Indian shall make out a presumption of title in himself from the fact of previous possession or ownership.

SEC. 23. *And be it further enacted*, That it shall be lawful for the military force of the United States to be employed in such manner and under such regulations as the President may direct, in the apprehension of every person who shall or may be found in the Indian country, in violation of any of the provisions of this act, and him immediately to convey from said Indian country, in the nearest convenient and safe route, to

the civil authority of the territory or judicial district in which said person shall be found, to be proceeded against in due course of law; and also, in the examination and seizure of stores, packages, and boats, authorized by the twentieth section of this act, and in preventing the introduction of persons and property into the Indian country contrary to law; which persons and property shall be proceeded against according to law: *Provided*, that no person apprehended by military force as aforesaid, shall be detained longer than five days after the arrest and before removal. And all officers and soldiers who may have any such person or persons in custody shall treat them with all the humanity which the circumstances will possibly permit; and every officer or soldier who shall be guilty of maltreating any such person while in custody, shall suffer such punishment as a court martial shall direct.

Provided.

SEC. 25. *And be it further enacted*, That so much of the laws of the United States as provides for the punishment of crimes committed within any place within the sole and exclusive jurisdiction of the United States, shall be in force in the Indian country: *Provided*, The same shall not extend to crimes committed by one Indian against the person and property of another Indian.

Laws of the United States in force in certain cases.

Provided.

SEC. 26. *And be it further enacted*, That if any person who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the territories, such offenders may be there apprehended, and transported to the territory or judicial district having jurisdiction of the same.

Offenders against this act may be arrested in any state or territory.

SEC. 27. *And be it further enacted*, That all penalties which shall accrue under this act, shall be sued for and recovered in an action of debt, in the name of the United States, before any court having jurisdiction of the same, (in any state or territory in which the defendant shall be arrested or found,) the one half to the use of the informer, and the other half to the use of the United States, except when the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be for their use.

How penalties shall be sued for.

SEC. 28. *And be it further enacted*, That when goods or other property shall be seized for any violation of this act, it shall be lawful for the person prosecuting

Proceedings against goods or other property.

on behalf of the United States to proceed against such goods, or other property, in the manner directed to be observed in the case of goods, wares, or other merchandise brought into the United States in violation of the revenue laws.

APPROVED, June 30, 1834.

June 30, 1834.

CHAP. CLXII.—*An Act to provide for the organization of the department of Indian affairs.*

[EXTRACTS.]

Duties of superintendents.

SEC. 3. *And be it further enacted*, That superintendents of Indian affairs shall, within their several superintendencies, exercise a general supervision and control over the official conduct and accounts of all officers and persons employed by the government in the Indian department, under such regulations as shall be established by the President of the United States; and may suspend such officers and persons from their office or employments, for reasons forthwith to be communicated to the Secretary of War.

Sub-agents to be appointed by the President.

SEC. 5. *And be it further enacted*, That a competent number of sub-agents shall be appointed by the President, with an annual salary of seven hundred and fifty dollars each, to be employed, and to reside wherever the President may direct, and who shall give bonds, with one or more sureties, in the penal sum of one thousand dollars, for the faithful execution of the same. But no sub-agent shall be appointed who shall reside within the limits of any agency where there is an agent appointed.

Limits of the agencies, and duties of agents.

SEC. 7. *And be it further enacted*, That the limits of each agency and sub-agency shall be established by the Secretary of War, either by tribes or by geographical boundaries. And it shall be the general duty of Indian agents and sub-agents to manage and superintend the intercourse with the Indians within their respective agencies, agreeably to law; to obey all legal instructions given to them by the Secretary of War, the commissioner of Indian affairs, or the superintendent of Indian affairs, and to carry into effect such regulations as may be prescribed by the President.

Additional security may be re-

SEC. 8. *And be it further enacted*, That the President of the United States may, from time to time, re-

quire additional security, and in larger amounts, from all persons charged or trusted, under the laws of the United States, with the disbursement or application of money, goods, or effects of any kind, on account of the Indian department.

quired of persons
intrusted with
disbursements.

SEC. 9. *And be it further enacted*, That an interpreter shall be allowed to each agency, who shall receive an annual salary of three hundred dollars: *Provided*, That where there are different tribes in the same agency, speaking different languages, one interpreter may be allowed, at the discretion of the Secretary of War, for each of the said tribes. Interpreters shall be nominated, by the proper agents, to the War Department for approval, and may be suspended, by the agent, from pay and duty, and the circumstances reported to the War Department for final action; and blacksmiths shall, in like manner, be employed wherever required by treaty stipulations, and such blacksmiths shall receive an annual compensation of four hundred and eighty dollars: and if they furnish their shop and tools, an additional sum of one hundred and twenty dollars; and their assistants shall be allowed an annual compensation of two hundred and forty dollars. And wherever farmers, mechanics, or teachers are required by treaty stipulations to be provided, they shall be employed under the direction of the War Department, and shall receive an annual compensation of not less than four hundred and eighty dollars, nor more than six hundred dollars. And in all cases of the appointments of interpreters or other persons employed for the benefit of the Indians, a preference shall be given to persons of Indian descent, if such can be found, who are properly qualified for the execution of the duties. And where any of the tribes are, in the opinion of the Secretary of War, competent to direct the employment of their blacksmiths, mechanics, teachers, farmers, or other persons engaged for them, the direction of such persons may be given to the proper authority of the tribe.

Interpreters.

Providso.

Blacksmiths. &c.

SEC. 10. *And be it further enacted*, That the compensation prescribed by this act shall be in full of all emoluments or allowances whatsoever: *Provided, however*, That where necessary, a reasonable allowance or provision may be made for offices and office contingen-

Compensation
prescribed to be
in full.

Providsoes.

cies: *And provided, also,* That where persons are required, in the performance of the duties under this act, to travel from one place to another, their actual expenses, or a reasonable sum in lieu thereof, may be allowed them: *And provided, also,* That no allowance shall be made to any person for travel or expenses in coming to the seat of government to settle his accounts, unless thereto required by the Secretary of War: *And provided, also,* That no person shall hold more than one office at the same time under this act, nor shall any agent, sub-agent, interpreter, or person employed under this act, receive his salary while absent from his agency or employment, without leave of the superintendent, or Secretary of War: *Provided,* such absence shall, at no one time, exceed sixty days.

Annuities to be paid to chiefs or other persons appointed by the tribe.

SEC. 11. *And be it further enacted,* That the payment of all annuities or other sums stipulated by treaty to be made to any Indian tribe, shall be made to the chiefs of such tribe, or to such person as said tribe shall appoint; or if any tribe shall appropriate their annuities to the purpose of education, or to any other specific use, then to such person or persons as such tribe shall designate.

Annuities, if requested, to be paid in goods.

SEC. 12. *And be it further enacted,* That it shall be lawful for the President of the United States, at the request of any Indian tribe to which any annuity shall be payable in money, to cause the same to be paid in goods, purchased as provided in the next section of this act.

Purchase of merchandise.

SEC. 13. *And be it further enacted,* That all merchandise required by any Indian treaty for the Indians, payable after making of such treaty, shall be purchased under the direction of the Secretary of War, upon proposals to be received, to be based on notices previously to be given; and all merchandise required at the making of any Indian treaty shall be purchased under the order of the commissioners, by such person as they shall appoint, or by such person as shall be designated by the President for that purpose. And all other purchases on account of the Indians, and all payments to them of money or goods, shall be made by such person as the President shall designate for that purpose. And the superintendent, agent, or sub-agent, together with such military officer as the Presi-

dent may direct, shall be present, and certify to the delivery of all goods and money required to be paid or delivered to the Indians. And the duties required by any section of this act, of military officers, shall be performed without any other compensation than their actual travelling expenses; and all persons whatsoever, charged or trusted with the disbursement or application of money, goods, or effects of any kind, for the benefit of the Indians, shall settle their accounts, annually, at the War Department, on the first day of October; and copies of the same shall be laid, annually before Congress at the commencement of the ensuing session, by the proper accounting officers; together with a list of the names of all persons to whom money, goods, or effects had been delivered within said year, for the benefit of the Indians, specifying the amount and object for which it was intended, and showing who are delinquents, if any, in forwarding their accounts according to the provisions of this act; and, also, a list of the names of all persons appointed or employed, under this act, with the dates of their appointment or employment, and the salary and pay of each.

SEC. 14. *And be it further enacted*, That no person employed in the Indian department shall have any interest or concern in any trade with the Indians, except for, and on account of, the United States; and any person offending herein, shall forfeit the sum of five thousand dollars, and upon satisfactory information of such offence being laid before the President of the United States, it shall become his duty to remove such person from the office or situation he may hold.

Persons employed in the Indian department not to be concerned in trade.

SEC. 15. *And be it further enacted*, That the President shall be, and he is hereby, authorized to cause any of the friendly Indians west of the Mississippi river, and north of the boundary of the Western territory, and the region upon Lake Superior and the head of the Mississippi, to be furnished with useful domestic animals and implements of husbandry, and with goods, as he shall think proper: *Provided*, That the whole amount of such presents shall not exceed the sum of five thousand dollars.

Domestic animals and implements to be furnished Indians west of the Mississippi.

SEC. 16. *And be it further enacted*, That the President be, and he is hereby, authorized to cause such

Rations to Indians visiting military posts.

rations as he shall judge proper, and as can be spared from the army provisions without injury to the service, to be issued, under such regulations as he shall think fit to establish, to Indians who may visit the military posts or agencies of the United States on the frontiers, or in their respective nations, and a special account of these issues shall be kept and rendered.

President to prescribe rules and regulations.

SEC. 17. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to prescribe such rules and regulations as he may think fit, for carrying into effect the various provisions of this act, and of any other act relating to Indian affairs, and for the settlement of the accounts of the Indian department.

APPROVED, June 30, 1834.

June 30, 1834.

CHAP. CLXIII.—*An Act in addition to the "Act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved March third, eighteen hundred and twenty-five.*

Act of March 3, 1825, ch. 65. Persons convicted of a criminal offence against United States to be treated as convicts of the state or territory.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That whenever any criminal convicted of any offence against the United States, shall be imprisoned, in pursuance of such conviction, and of the sentence thereupon, in the prison or penitentiary of any state or territory, such criminal shall in all respects be subject to the same discipline and treatment, as convicts sentenced by the courts of the state or territory, in which such prison or penitentiary is situated; and while so confined therein, shall also be exclusively under the control of the officers having charge of the same, under the laws of the said state or territory.

APPROVED, June 30, 1834.

June 30, 1834.

CHAP. CLXVIII.—*An Act authorizing the governors of the several states to transmit, by mail, certain books and documents.*

State papers &c. to be free of postage.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall be lawful for the governors of the several states, to transmit by mail, free of postage, all laws and reports, whether bound or unbound, and

all records and documents of their respective states, which may be directed by the legislatures of the several states to be transmitted to the executives of other states; and the governor of the state transmitting the same shall, in addition to his frank, endorse the kind of book or document enclosed, and direct the same to the governor of the state to which the same may be sent.

Character of
books, &c., to be
endorsed.

APPROVED, June 30, 1834.

CHAP. XL.—*An Act in amendment of the acts for the punishment of offences against the United States.* March 3, 1835.

[EXTRACT.]

SEC. 4. *And be it further enacted*, That whenever any person indicted for any offence against the United States, whether capital or otherwise, shall upon his arraignment stand mute, or will not plead or answer thereto, it shall be the duty of the court to enter the plea of not guilty on his behalf, in the same manner as if he had pleaded not guilty thereto. And when the party shall plead not guilty, or such plea shall be entered as aforesaid, the cause shall be deemed at issue, and shall, without further form or ceremony, be tried by a jury. And in all trials in capital cases, if the party indicted shall peremptorily challenge above the number of jurors allowed by law, such excess of challenges shall be disallowed by the court, and the cause shall proceed for trial in the same manner as if the same [said] challenges had not been made.

Procedure in case
a person arraigned
shall stand
mute, &c.

Challenge.

SEC. 5. *And be it further enacted*, That whenever any person shall be convicted of any offence against the United States which is punishable by fine and imprisonment, or by either, it shall be lawful for the court by which the sentence is passed, to order the sentence to be executed in any house of correction, or house of reformation for juvenile delinquents within the state or district where such court is holden, the use of which shall be allowed and authorized by the legislature of the state for such purpose. And the expenses attendant upon the execution of such sentence shall be paid by the United States.

Court may order
sentence to be
executed in house
of correction,
&c.

APPROVED, March 3, 1835.

March 19, 1836.

CHAP. XLIV.—*An Act to provide for the payment of volunteers and militia corps, in the service of the United States.*

[EXTRACTS.]

Volunteers and militia to be paid and furnished as provided for the infantry of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, non-commissioned officers, musicians, artificers and privates, of volunteer and militia corps, who have been in the service of the United States, at any time since the first day of November, in the year of our Lord one thousand eight hundred and thirty-five, or may hereafter be in the service of the United States, shall be entitled to and receive the same monthly pay, rations, clothing or money in lieu thereof, and forage, and be furnished with the same camp equipage, including knapsacks, as are, or may be provided by law for the officers, musicians, artificers and privates, of the infantry of the army of the United States.

Officers of mounted companies, allowances to.

SEC. 2. *And be it further enacted,* That the officers of all mounted companies who have been in, or may hereafter be in, the service of the United States, shall each be entitled to receive forage, or money in lieu thereof, for two horses, when they actually keep private servants, and for one horse when without private servants, and that forty cents per day be allowed for the use and risk of each horse, except horses killed in battle or dying of wounds received in battle. That each non-commissioned officer, musician, artificer and private, of all mounted companies, shall be entitled to receive forage in kind for one horse, with forty cents per day for the use and risk thereof, except horses killed in battle, or dying of wounds received in battle, and twenty-five cents per day in lieu of forage and subsistence, when the same shall be furnished by himself, or twelve and a half cents per day for either as the case may be.

Allowance for travelling.

SEC. 3. *And be it further enacted,* That the officers, non-commissioned officers, musicians, artificers and privates, shall be entitled to one day's pay, subsistence, and other allowances, for every twenty miles' travel from their places of residence to the place of general rendezvous, and from the place of discharge back to their residence.

SEC. 5. *And be it further enacted*, That when any officer, non-commissioned officer, artificer, or private, of said militia or volunteer corps, who shall die in the service of the United States, or returning to his place of residence after being mustered out of service or at any time in consequence of wounds received in service, and shall leave a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled, at the time of his death, for and during the term of five years; and in case of the death or intermarriage of such widow before the expiration of five years, the half pay for the remainder of the time shall go to the child or children of said decedent: *Provided always*, That the Secretary of War shall adopt such forms of evidence, in applications under this act, as the President of the United States may prescribe.

Provision for widows, &c. of those who die in the service.

Proviso.

APPROVED, March 19, 1836.

CHAP. LXXVI.—*An Act to give effect to patents for public lands issued in the names of deceased persons.*

May 20, 1836.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where patents for public lands have been or may hereafter be issued, in pursuance of any law of the United States, to a person who had died, or who shall hereafter die, before the date of such patent, the title to the land designated therein shall enure to, and become vested in, the heirs, devisees, or assignees of such deceased patentee, as if the patent had issued to the deceased person during life; and the provisions of this act shall be construed to extend to patents for lands within the Virginia Military District in the State of Ohio.

Patents for public lands to issue to heirs, devisees, and assignees.

APPROVED, May 20, 1836.

July 1, 1836.

CHAP. CCXXXI.—*An Act to disapprove and annul certain acts of the Territorial Legislature of Florida, and for other purposes.*

[EXTRACT.]

Territorial Legislatures not to grant banking privileges until, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no act of the Territorial Legislature of any of the Territories of the United States, incorporating any bank or any institution with banking powers or privileges, hereafter to be passed, shall have any force or effect whatever, until approved and confirmed by Congress.

APPROVED, July 1, 1836.

July 4, 1836.

CHAP. CCCLXII.—*An Act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes.*

[EXTRACTS.]

Five years half pay to widows or orphans of those who have died, &c. in the service of United States since 20th April 1813.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any officer, non-commissioned officer, musician or private of the militia, including rangers, sea fencibles, and volunteers, shall have died while in the service of the United States, since the twentieth of April, eighteen hundred and eighteen, or who shall have died in consequence of a wound received whilst in the service, since the day aforesaid, and shall have left a widow, or, if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death or receiving such wound, for and during the term of five years; and in case of the death or marriage of such widow before the expiration of said five years, the half pay for the remainder of the time shall go to the said decedent: *Provided*, That the half pay aforesaid shall be half the monthly pay of the officers, non-commissioned officers, musicians and privates of the infantry of the regular army and no more: *Provided, also*, That no greater sum shall be allowed to the widow or to the child or*

Provido.

Provido.

children of any officer, than the half pay of a lieutenant colonel.

SEC: 4. *And be it further enacted*, That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any money or half pay granted by this act, shall be utterly void and of no effect; each person acting for and in behalf of any one entitled to money under this act, shall take and subscribe an oath, to be administered by the proper accounting officer and retained by him and put on file, before a warrant shall be delivered to him, that he has no interest in said money by any pledge, mortgage, sale, assignment or transfer, and that he does not know or believe that the same has been so disposed of to any person whatever.

Transfers of any claim under this act declared void.

APPROVED, July 4, 1836.

RESOLUTION.

[No. 7].—*A Resolution providing for the distribution of weights and measures.* June 14, 1836.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is directed to cause a complete set of all the weights and measures adopted as standards, and now either made or in the progress of manufacture for the use of the several custom-houses, and for other purposes, to be delivered to the Governor of each State in the Union, or such person as he may appoint, for the use of the States respectively, to the end that an uniform standard of weights and measures may be established throughout the United States.

A complete set of such weights and measures as are intended for custom houses to be delivered to each state.

APPROVED, June 14, 1836.

CHAP. XXXV.—*An Act to abolish imprisonment for debt in certain cases.* Feb. 28, 1839.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be imprisoned for debt in any state, on process issuing out of a court of the United States, where by the laws of such State, im-

Imprisonment for debt abolished. Act of Jan. 14, 1841, ch. 2.

prisonment for debt has been abolished; and where by the laws of a State, imprisonment for debt shall be allowed, under certain conditions and restrictions, the same conditions and restrictions shall be applicable to the process issuing out of the courts of the United States; and the same proceedings shall be had therein, as are adopted in the courts of such State.

APPROVED, February 28, 1839.

Feb. 28, 1839.

CHAP. XXXVI.—*An Act in amendment of the acts respecting the Judicial System of the United States.*

[EXTRACTS.]

The court may entertain jurisdiction in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where, in any suit at law or in equity, commenced in any court of the United States, there shall be several defendants, any one or more of whom shall not be inhabitants of or found within the district where the suit is brought or shall not voluntarily appear thereto, it shall be lawful for the court to entertain jurisdiction, and proceed to the trial and adjudication of such suit, between the parties who may be properly before it; but the judgment or decree rendered therein shall not conclude or prejudice other parties, not regularly served with process, or not voluntarily appearing to answer; and the nonjoinder of parties who are not so inhabitants, or found within the district, shall constitute no matter of abatement, or other objection to said suit.

Appointments of clerks—how made.

SEC. 2. *And be it further enacted,* That all the circuit courts of the United States shall have the appointment of their own clerks; and in case of a disagreement between the judges the appointment shall be made by the presiding judge of the court.

Pecuniary penalties, &c. where sued for and recovered.

SEC. 3. *And be it further enacted,* That all pecuniary penalties and forfeitures accruing under the laws of the United States may be sued for and recovered in any court of competent jurisdiction in the State or district where such penalties or forfeitures have accrued, or in which the offender or offenders may be found.

No suits &c. to be maintained for

SEC. 4. *And be it further enacted,* That no suit or prosecution shall be maintained, for any penalty or

forfeiture, pecuniary or otherwise, accruing under the laws of the United States, unless the same suit or prosecution shall be commenced within five years from the time when the penalty or forfeiture accrued: *Provided*, The person of the offender or the property liable for such penalty or forfeiture shall, within the same period, be found within the United States; so that the proper process may be instituted and served against such person or property therefor.

penalties, &c.
unless commenced within five years.

Proviso.

SEC. 5. *And be it further enacted*, That the punishment of whipping and the punishment of standing in the pillory, so far as they now are provided for by the laws of the United States, be, and the same are hereby abolished.

Certain punishments abolished

SEC. 6. *And be it further enacted*, That, in all cases of recognizances in criminal causes taken for, or in, or returnable to, the courts of the United States, which shall be forfeited by a breach of the condition thereof, the said court for or in which the same shall be so taken, or to which the same shall be returnable, shall have authority in their discretion to remit the whole or a part of the penalty, whenever it shall appear to the court that there has been no wilful default of the parties, and that a trial can notwithstanding be had in the cause, and that public justice does not otherwise require the same penalty to be exacted or enforced.

Penalties, for the forfeiture of recognizance, &c. may be remitted.

SEC. 8. *And be it further enacted*, That in all suits and actions in any circuit court of the United States in which it shall appear that both the judges thereof or the judge thereof, who is solely competent by law to try the same, shall be any ways concerned in interest therein, or shall have been of counsel for either party, or is, or are so related to or connected with either party as to render it improper for him or them, in his or their opinion, to sit in the trial of such suit or action, it shall be the duty of such judge or judges, on application of either party to cause the fact to be entered on the records of the court; and also to make an order that an authenticated copy thereof, with all the proceedings in such suit or action, shall be forthwith certified to the most convenient circuit court in the next adjacent State, or in the next adjacent circuit; which circuit court shall, upon such record and order being filed with the clerk thereof, take cognizance

In suits and actions in which the judges are in any way concerned, &c.

thereof in the same manner as if such suit or action had been rightfully and originally commenced therein, and shall proceed to hear and determine the same accordingly, and the proper process for the due execution of the judgment or decree rendered therein, shall run into and may be executed in the district where such judgment or decree was rendered, and also, into the district from which such suit or action was removed.

APPROVED, February 28, 1839.

June 19, 1840.

CHAP. XXXIX.—*An Act making provision for the payment of pensions to the executors or administrators of deceased pensioners in certain cases.*

In case of a pensioner leaving children, but no widow.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case any male pensioner shall die, leaving children, but no widow, the amount of pension due to such pensioner at the time of his death shall be paid to the executor or administrator on the estate of such pensioner, for the sole and exclusive benefit of the children, to be by him distributed among them in equal shares, and the same shall not be considered as a part of the assets of said estate, nor liable to be applied to the payment of the debts of said estate in any case whatever.

In case of a pensioner who is a widow leaving children.

SEC. 2. *And be it further enacted,* That in case any pensioner who is a widow shall die, leaving children, the amount of pension due at the time of her death shall be paid to the executor or administrator for the benefit of her children, as directed in the foregoing section.

In case of pensioner leaving children.

SEC. 3. *And be it further enacted,* That in case of the death of any pensioner, whether male or female, leaving children, the amount of pension may be paid to any one or each of them, as they may prefer, without the intervention of an administrator.

APPROVED, June 19, 1840.

CHAP. XLIII.—*An Act in addition to the acts respecting the judicial system of the United States.* July 4, 1840.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, whenever it shall so happen that neither of the judges of a circuit court of the United States shall attend at the commencement of a session of the said court, or at the time appointed on any adjournment thereof, to open and adjourn the said court in person, either of the said judges may, by a written order to the marshal, adjourn the court from time to time, as the case may require, to any time or times antecedent to the next stated term of the said court; and all suits, actions, writs, processes, recognizances, and other proceedings, pending in such court, or returnable to, or to be acted upon at such court, shall have day and be returnable to, and be heard, tried, and determined, at such adjournment or adjournments in the same manner and with the same effect as if the said court had been duly opened and held at the commencement of such session, or other day appointed therefor; and all persons bound or required to appear at the said court, either as jurymen, witnesses, parties, or otherwise, shall be bound and required to attend at such adjournment or adjournments accordingly.

Adjournment of the court.

Suits, actions, &c. not affected thereby.

Bound persons required to appear.

SEC. 2. *And be it further enacted,* That the presiding judge of any circuit court may, at his discretion, appoint special sessions thereof, to be held at the places where the stated sessions thereof are holden; at which special sessions it shall be competent for the said court to entertain jurisdiction of and to hear and decide all cases in equity, cases in error, or on appeal, issues of law, motions in arrest of judgment, motions for a new trial, and all other motions, and to award executions and other final processes, and to do and transact all other business, and direct all other proceedings, in all causes pending in the circuit court, except trying any cause by a jury, in the same way and with the same force and effect as the same could or might be done at the stated sessions of such court.

Special sessions.

Jurisdiction of the court at special sessions.

SEC. 3. *And be it further enacted,* That writs of error shall lie to the Supreme Court from all judgments of a circuit court, in cases brought there by writs of error from the district court, in like manner and under

Writs of error.

the same regulations, limitations, and restrictions, as are now provided by law for writs of error to judgments rendered upon suits originally brought in the circuit court.

When and how judgments, &c. shall cease to be liens.

SEC. 4. *And be it further enacted*, That judgments and decrees hereafter rendered in the circuit and district courts of the United States, within any State, shall cease to be liens on real estate or chattels real in the same manner and at like periods as judgments and decrees of the courts of such State now cease by law to be liens thereon; and the respective clerks of the United States courts in such State shall receive the like fees for making searches and certificates respecting such liens as are now allowed for like services to the clerks of the Supreme Court of such State; * *

APPROVED, July 4, 1840.

July 20, 1840.

1800, ch. 61.

Jurors of U. S. courts in each State to have like qualifications, &c.
1841, ch. 33.

CHAP. XLVII.—*An Act to amend the act, approved May thirteenth, eighteen hundred, entitled "An act to amend an act entitled 'An act to establish the judicial courts of the United States.'"*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurors to serve in the courts of the United States, in each State respectively, shall have the like qualifications, and be entitled to the like exemptions, as jurors of the highest court of law of such State now have and are entitled to, and shall hereafter from time to time have and be entitled to, and shall be designated by ballot, lot, or otherwise, according to the mode of forming such juries now practised and hereafter to be practised therein, in so far as such mode may be practicable by the courts of the United States, or the officers thereof; and for this purpose, the said courts shall have power to make all necessary rules and regulations for conforming the designation and empanneling of juries, in substance, to the laws and usages now in force in such State; and further, shall have power, by rule or order, from time to time, to conform the same to any change in these respects which may be hereafter adopted by the Legislatures of the respective States for the State courts.

APPROVED, July 20, 1840.

CHAP. II.—*An Act supplementary to an act to abolish imprisonment for debt in certain cases.*

Jan. 14, 1841.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to abolish imprisonment for debt in certain cases," approved February twenty-eighth, eighteen hundred and thirty-nine, shall be so construed as to abolish imprisonment for debt, on process issuing out of any court of the United States, in all cases whatever, where, by the laws of the State in which the said court shall be held, imprisonment for debt has been, or shall hereafter be, abolished.

Construction to be given to the act of 28th Feb. 1839, ch. 35.

APPROVED, January 14, 1841.

CHAP. CLXXXVIII.—*An Act further supplementary to an act entitled, "An act to establish the judicial courts of the United States," passed the twenty-fourth of September, seventeen hundred and eighty-nine.*

Aug. 23, 1842.

1789 ch. 20.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the commissioners who now are, or hereafter may be, appointed by the circuit courts of the United States to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes, shall and may exercise all the powers that any justice of the peace, or other magistrate, of any of the United States may now exercise in respect to offenders for any crime or offence against the United States, by arresting, imprisoning, or bailing the same, under and by virtue of the thirty-third section of the act of the twenty-fourth of September, Anno Domini seventeen hundred and eighty-nine, entitled, "An act to establish the judicial courts of the United States;" and who shall and may exercise all the powers that any judge or justice of the peace may exercise under and in virtue of the sixth section of the act passed the twentieth of July, Anno Domini seventeen hundred and ninety, entitled "An act for the government and regulation of seamen in the merchant service."

Commissioners appointed by the circuit courts to take bail, &c. may exercise the powers of a justice of the peace in certain cases.

1789, ch. 20.

1790, ch. 29.

Sec. 2. *And be it further enacted,* That in all hearings before any justice or judge of the United States, or any commissioner appointed as aforesaid, under and in virtue of the said thirty-third section of the act en-

Justice, &c. may require defendants' witnesses to give recognizance for their appearance to testify.

titled "An act to establish the judicial courts of the United States," it shall be lawful for such justice, judge, or commissioner, where the crime or offence is charged to have been committed on the high seas or elsewhere within the admiralty and maritime jurisdiction of the United States, in his discretion to require a recognizance of any witness produced in behalf of the accused, with such surety or sureties as he may judge necessary, as well as in behalf of the United States, for their appearing and giving testimony, at the trial of the cause, whose testimony, in his opinion, is important for the purposes of justice at the trial of the cause, and is in danger of being otherwise lost; and such witnesses shall be entitled to receive from the United States the usual compensation allowed to Government witnesses for their detention and attendance, if they shall appear and be ready to give testimony at the trial.

District courts to have concurrent jurisdiction with the circuit courts of all offences not capital.

Adjournments.

Punishment prescribed by 16th section of act of April 30, 1790, ch. 9, changed.

District and circuit courts to be always open for the purpose of filing libels, bills, &c.

SEC. 3. *And be it further enacted,* That the district courts of the United States shall have concurrent jurisdiction with the circuit courts of all crimes and offences against the United States, the punishment of which is not capital. And in such of the districts where the business of the court may require it to be done for the purposes of justice, and to prevent undue expenses and delays in the trial of criminal causes, the said district courts shall hold monthly adjournments of the regular terms thereof for the trial and hearing of such causes.

SEC. 4. *And be it further enacted,* That, in lieu of the punishment now prescribed by the sixteenth section of the act of Congress, entitled, "An act for the punishment of certain crimes against the United States," passed on the thirtieth day of April, Anno Domini one thousand seven hundred and ninety, for the offences in the said section mentioned, the punishment of the offender, upon conviction thereof, shall be by fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both, according to the nature and aggravation of the offence.

SEC. 5. *And be it further enacted,* That the district courts as courts of admiralty, and the circuit courts as courts of equity, shall be deemed always open for the purpose of filing libels, bills, petitions, answers,

pleas, and other pleadings, for issuing and returning mesne and final process and commissions, and for making and directing all interlocutory motions, orders, rules, and other proceedings whatever, preparatory to the hearing of all causes pending therein upon their merits. And it shall be competent for any judge of the court, upon reasonable notice to the parties, in the clerk's office or at chambers, and in vacation as well as in term, to make and direct, and award all such process, commissions and interlocutory orders, rules, and other proceedings, whenever the same are not grantable of course according to the rules and practice of the court.

Any judge may direct and award such processes.

SEC. 6. *And be it further enacted*, That the Supreme Court shall have full power and authority, from time to time, to prescribe, and regulate, and alter, the forms of writs and other process to be used and issued in the district and circuit courts of the United States, and the forms and modes of framing and filing libels, bills, answers, and other proceedings and pleadings, in suits at common law or in admiralty and in equity pending in the said courts, and also the forms and modes of taking and obtaining evidence, and of obtaining discovery, and generally the forms and modes of proceeding to obtain relief, and the forms and modes of drawing up, entering, and enrolling decrees, and the forms and modes of proceeding before trustees appointed by the court, and generally to regulate the whole practice of the said courts, so as to prevent delays, and to promote brevity and succinctness in all pleadings and proceedings therein, and to abolish all unnecessary costs and expenses in any suit therein.

Supreme court to have power to prescribe the forms of bills, writs, &c.

SEC. 7. *And be it further enacted*, That, for the purpose of further diminishing the costs and expenses in suits and proceedings in the said courts the Supreme Court shall have full power and authority, from time to time, to make and prescribe regulations to the said district and circuit courts, as to the taxation and payment of costs in all suits and proceedings therein; and to make and prescribe a table of the various items of costs which shall be taxable and allowed in all suits, to the parties, their attorneys, solicitors, and proctors, to the clerk of the court, to the marshal of the district, and his deputies, and other officers serving process,

Supreme court to have power to regulate the costs in the district or circuit courts.

to witnesses, and to all other persons whose services are usually taxable in bills of costs. And the items so stated in the said table, and none others, shall be taxable or allowed in bills of costs; and they shall be fixed as low as they reasonably can be, with a due regard to the nature of the duties and services which shall be performed by the various officers and persons aforesaid, and shall in no case exceed the costs and expenses now authorized, where the same are provided for by existing laws.

Interest shall be allowed and levied by the marshal under execution upon all judgments, &c.

SEC. 8. *And be it further enacted*, That on all judgments in civil cases, hereafter recovered in the circuit or district courts of the United States, interest shall be allowed, and may be levied by the marshal, under process of execution issued thereon, in all cases where, by the law of the State in which such circuit or district court shall be held, interest may be levied under process of execution on judgments recovered in the courts of such State, to be calculated from the date of the judgment, and at such rate per annum, as is allowed by law, on judgments recovered in the courts of such State.

APPROVED, August 23, 1842.

Aug. 23, 1842.

1842, ch 183.

Justices of the Supreme Court, &c, empowered to grant writs of habeas corpus when subjects of foreign States are in custody of the United States, &c.

CHAP. CCLVII.—*An Act to provide further remedial justice in the courts of the United States.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That either of the justices of the Supreme Court of the United States, or judge of any district court of the United States, in which a prisoner is confined, in addition to the authority already conferred by law, shall have power to grant writs of habeas corpus in all cases of any prisoner or prisoners in jail or confinement, where he, she, or they, being subjects or citizens, of a foreign State, and domiciled therein, shall be committed or confined, or in custody, under or by any authority or law, or process founded thereon, of the United States, or of any one of them, for or on account of any act done or omitted under any alleged right, title, authority, privilege, protection, or exemption, set up or claimed under the commission, or order, or sanction, of any foreign State or Sovereignty, the

validity and effect whereof depend upon the law of nations, or under color thereof. And upon the return of the said writ, and due proof of the service of notice of the said proceeding to the Attorney General or other officer prosecuting the pleas of the State, under whose authority the petitioner has been arrested, committed, or is held in custody, to be prescribed by the said justice or judge at the time of granting said writ, the said justice or judge shall proceed to hear the said cause; and if, upon hearing the same, it shall appear that the prisoner or prisoners is or are entitled to be discharged from such confinement, commitment, custody or arrest, for or by reason of such alleged right, title, authority, privileges, protection or exemption, so set up and claimed, and the laws of nations applicable thereto, and that the same exists in fact, and has been duly proved to the said justice or judge, then it shall be the duty of the said justice or judge forthwith to discharge such prisoner or prisoners accordingly. And if it shall appear to the said justice or judge that such judgment or discharge ought not to be rendered, then the said prisoner or prisoners shall be forthwith remanded: *Provided always*, That from any decision of such justice or judge an appeal may be taken to the circuit court of the United States for the district in which the said cause is heard; and from the judgment of the said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders as well for the custody and appearance of the prisoner or prisoners as for sending up to the appellate tribunal a transcript of the petition, writ of habeas corpus returned thereto, and other proceedings, as the judge hearing the said cause may prescribe; and pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against said prisoner or prisoners, in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of habeas corpus, shall be deemed null and void.

If the prisoner is entitled to be discharged for the right, &c. claimed, the justice or judge shall forthwith discharge him.

Provide.

Until final judgment, and after discharge, proceedings in State courts null and void.

APPROVED, August 29, 1842.

Aug. 29, 1842.

CHAP. CCLIX.—*An Act to provide for the settlement of certain accounts for the support of Government in the Territory of Wisconsin, and for other purposes.*

[EXTRACTS.]

Accounts of territories to be adjusted at the Treasury.

No payment to be made, unless approved by Congress.

What officers allowed, and their pay

Secretaries of territories to prepare the acts for publication.

Amount found due to be paid.

SEC. 2. *And be it further enacted*, That all accounts for disbursements in the Territories of the United States, of money appropriated by Congress for the support of Government therein, shall be settled and adjusted at the Treasury Department; and no act, resolution, or order, of the Legislature of any Territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by said accounting officers. And no payment shall be made or allowed, unless the Secretary of the Treasury shall have estimated therefor, and the object been approved by Congress. No session of the Legislature of a Territory shall be held until the appropriation for its expenses shall have been made. In the adjustment of said accounts, no charge for the services of a greater number of officers and attendants shall be allowed than for one secretary and assistant secretary, or clerk, one sergeant-at-arms, or doorkeeper, one messenger, and one foreman for each House of the Legislature, to neither of whom shall a greater compensation than three dollars per day be paid. And it shall be the duty of the Secretary of each Territory to prepare the acts passed by the Legislature for publication, and to furnish a copy thereof to the public printer of the Territory within ten days after the passage of each act.

SEC. 3. *And be it further enacted*, That whatever sum of money shall be found due, upon such auditing and settlement, beyond the amount of former appropriations, whether the same have been expended or not, be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, August 29, 1842.

May 23, 1844.

CHAP. XVII.—*An Act for the relief of the citizens of towns upon the lands of the United States, under certain circumstances.*

When public lands are occupied as a town site, corporate

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any portion of the surveyed pub-

lic lands has been or shall be settled upon and occupied as a town site, and therefore not subject to entry under the existing pre-emption laws, it shall be lawful, in case such town or place shall be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judges of the county court for the county in which such town may be situated, to enter, at the proper land office, and at the minimum price, the land so settled and occupied, in trust, for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such rules and regulations as may be prescribed by the legislative authority of the State or Territory in which the same is situated: *Provided*, That the entry of the land intended by this act be made prior to the commencement of the public sale of the body of land in which it is included, and that the entry shall include only such land as is actually occupied by the town, and be made in conformity to the legal subdivisions of the public lands authorized by the act of twenty-fourth April, one thousand eight hundred and twenty, and shall not in the whole exceed three hundred and twenty acres: *And provided, also*, That any act of said trustees, not made in conformity to the rules and regulations herein alluded to, shall be void and of none effect: * * * *

authorities, &c. to enter the same in trust for the occupants

Execution of the trust, &c. to be regulated by the Legislature.

Provided.

Any act of trustees not made agreeable to regulations void.

APPROVED, May 23, 1844.

CHAP. XXXI.—*An Act to amend the judiciary act passed the twenty fourth of September, one thousand seven hundred and eighty nine.*

May 31, 1844.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That final judgments in any circuit court of the United States, in any civil action brought by the United States for the enforcement of the revenue laws of the United States, or for the collection of the duties due, or alleged to be due, on merchandise imported therein, may be re-examined, and reversed or affirmed, in the Supreme Court of the United States, upon writ

1789, ch. 20. Appeal to be from Circuit to Supreme Court of the U. S. in any civil suit arising under revenue laws without regard to the amount.

of error, as in other cases, without regard to the sum or value in controversy in such action, at the instance of either party.

APPROVED, May 31, 1844.

June 15, 1844.

CHAP. LXIX.—*An Act to authorize the Legislatures of the several Territories to regulate the apportionment of representation, and for other purposes.*

Legislatures to apportion the representation from time to time.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be competent to the Legislatures of the several Territories, to readjust and apportion the representation in the two branches of their respective bodies in such manner from time to time as may seem to them just and proper: *Provided,* That the numbers of said bodies as authorized by existing laws shall not be increased.

Proviso.

Justices of the peace, &c. to be elected by the people.

SEC. 2. *And be it further enacted,* That justices of the peace, and all general officers of the militia in the several Territories shall be elected by the people in such manner as the respective Legislatures thereof may provide by law.

APPROVED, June 15, 1844.

July 29, 1846.

CHAP. LXVI.—*An Act in Relation to the Payment of Claims.*

Claims allowed by Congress not to be paid to any other person or persons than the claimants, their executors, administrators, or duly constituted attorneys.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a claim on the United States aforesaid shall hereafter have been allowed by a resolution or act of Congress, and thereby directed to be paid, the money shall not, nor shall any part thereof, be paid to any person or persons other than the claimant or claimants, his or their executor or executors, administrator or administrators, unless such person or persons shall produce to the proper disbursing officer a warrant of attorney executed by such claimant or claimants, executor or executors, administrator or administrators, after the enactment of the resolution or act allowing the claim; and every such warrant of attorney shall refer to such resolution or act, and expressly recite the amount allowed thereby, and shall be attested by two competent witnesses, and be acknowledged by the person or persons executing it, be-

Requisite form of warrant of attorney.

fore an officer having authority to take the acknowledgment of deeds, who shall certify such acknowledgment; and it shall appear by such certificate that such officer, at the time of the making of such acknowledgment, read and fully explained such warrant of attorney to the person or persons acknowledging the same.

APPROVED, July 29, 1846.

To be attested
and acknowledged.

CHAP. XCVIII.—*An Act to regulate the Proceedings in the Circuit and District Courts of the United States, and for other Purposes.*

Aug. 3, 1846.

[EXTRACTS.]

SEC. 2. *And be it further enacted*, That whenever the district attorney shall deem it necessary, it shall be lawful for any Circuit Court, in session, by order entered on its minutes, to remit to the next term or session of the District Court of the same district any indictment pending in the same Circuit Court, when the offence or offences therein charged may be cognizable by the said District Court; and in like manner it shall be lawful for any District Court to remit to the next term or session of the Circuit Court of the same district any indictment pending in the said District Court; and such remission shall carry with it all recognizances, processes, and proceedings pending in the case in the court from which the remission is made; and the court to which such remission is made shall, after the order of remission is filed therein, act and proceed in the case as if the indictment, and all other proceedings in the same, had been originated in said court.

Either court may
remit indictments
to the other.

Effect of such re-
mission.

SEC. 3. *And be it further enacted*, That it shall be lawful for the grand juries impanelled and sworn in any District Court to take cognizance of all crimes and offences within the jurisdiction of the said Circuit and District Courts, and every indictment for a capital offence, presented to the District Court, shall, by order entered on the minutes of the court, be remitted to the next term and session of the Circuit Court, together with all recognizances taken therein; and on filing such order and indictment with the clerk of said Circuit Court, that court shall thereafter proceed thereupon, the same as if the indictment had been originally

Grand juries of
District Courts
may take cogni-
zance of crimes
within the juris-
diction of either
Court. —
Capital indict-
ments to be re-
mitted to Circuit
Court.

Other remissions
of cases.

How grand juries
shall be summon-
ed.

May be summon-
ed at any time.

Proviso.

Surrender of
criminals by their
bail.

New bail to be
given in certain
cases.

found and presented in said court; and the said District Court may, moreover, in like manner, remit to the Circuit Court any indictment pending in said District Court, when, in the opinion of the court, difficult and important questions of law are involved in the case; and the proceedings thereupon shall thereafter be the same in the Circuit Court as if such indictment had been originally found and presented therein. That no grand jury shall hereafter be summoned to attend any Circuit or District Court of the United States, unless the judge of such District Court, or one of the judges of such Circuit Court, shall, in his own discretion, or upon a notification by the district attorney that such jury will be needed, order a *venire* to be issued therefor: *Provided*, That nothing herein shall prevent either of said courts in term from directing a grand jury to be summoned and impannelled, whenever, in its judgment, it may be proper to do so, and at such time as it may direct: *And provided further*, That nothing herein shall operate to extend beyond what the law now permits the imprisonment before indictment found of an individual accused of a crime or offence, or the time during which an individual thus accused may be held under recognizance before indictment found.

SEC. 4. *And be it further enacted*, That any party charged with a criminal offence, and admitted to bail, may, in vacation, be arrested by his bail, and delivered to the marshal or his deputy, before any judge or other officer having power to commit for such offence; and at the request of such bail, the judge or other officer shall recommit the party so arrested to the custody of the marshal, and endorse on the recognizance, or certified copy thereof, the discharge and *exoneratur* of such bail; and the party so committed shall therefrom be held in custody until discharged by due course of law.

SEC. 6. *And be it further enacted*, That upon the necessary proof being made to any judge of the United States, or other magistrate having authority to commit on criminal charges against the laws of the United States, that a person previously admitted to bail on any such criminal charge is about to abscond, and that his bail is insufficient, it shall be lawful for any such

judge or magistrate to require such person to give better security, or, for default thereof, to cause him to be committed to prison; and, to that end, an order for his arrest may be endorsed on the former commitment, or a new warrant therefor may be issued by such judge or magistrate, setting forth the cause thereof.

SEC. 7. *And be it further enacted*, That, on the application of any attorney of the United States for any district, and upon satisfactory proof of the materiality of the testimony of any person who shall be a competent witness, and whose testimony shall, in the opinion of any judge of the United States, be necessary upon the trial of any criminal cause or proceeding in which the United States shall be a party or interested, any such judge may compel such person, so required or deemed by him necessary as a witness, to give recognizance, with or without sureties in his discretion, to appear on the trial of said cause or proceeding and give his testimony therein; and, for that purpose, the said judge may issue a warrant against such person, under his hand, with or without seal, directed to the marshal or other officer authorized to execute criminal or civil process in behalf of the United States, to arrest such person and carry him before such judge. And in case the person so arrested shall neglect or refuse to give said recognizance in the manner required by said judge, the said judge may issue a warrant of commitment against such person, which shall be delivered to said officer, whose duty it shall be to convey such person to the prison mentioned in said mittimus. And the said person shall remain in confinement until he shall be removed to the court for the purpose of giving his testimony, or until he shall have given the recognizance required by said judge.

SEC. 11. *And be it further enacted*, That, whenever any indictment shall be pending in any court of the United States, and any defendant thereto shall make an affidavit setting forth that there are witnesses whose evidence is material to his defence, and that he cannot safely go to trial without them, what he expects to prove by each of them, that they are within the district in which the court is held, or within one hundred miles of the place of trial, and that he is not possessed of sufficient means, and is actually unable

Witnesses to enter into recognizance.

Warrant to issue.

Penalty for refusing to give recognizance.

Witness to remain in confinement.

Process to compel attendance of witnesses on behalf of criminals.

Fees and costs.
how to be paid.

to pay the fees of such witnesses, the court in term, or any judge thereof in vacation, may, if it appear proper to do so, order that such witnesses be subpoenaed, if found within the limits aforesaid; and in such case, the costs incurred by such process and the fees of such witnesses shall be paid in the same manner that similar costs and fees are paid in case of witnesses subpoenaed in behalf of the United States.

APPROVED, August 8, 1846.

Aug. 8, 1846.

CHAP. CVII.—*An Act making Copies of Papers certified by the Secretary of the Senate or clerk of the House of Representatives legal Evidence.*

Certified extracts
from Journals of
Senate and House
of Representa-
tives made evi-
dence in U. S.
Courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That extracts from the Journals of the Senate or of the House of Representatives, and of the Executive Journal of the Senate, when the injunction of secrecy is removed, duly certified by the secretary of the Senate or by the clerk of the House of Representatives, shall be admitted as evidence in the several courts of the United States, and shall have the same force and effect as the originals thereof would have if produced in court and proved.

Fees for copies.

SEC. 2. *And be it further enacted,* That for all such copies, certified as aforesaid, the secretary of the Senate and clerk of the House of Representatives shall be entitled to the same fees as are now allowed by law, for similar services, to the Secretary of State.

APPROVED, August 8, 1846.

March 3, 1847.

CHAP. LV.—*An Act for the Reduction of the Costs and Expenses of Proceedings in Admiralty against Ships and Vessels.*

Marshal to stay
execution in ad-
miralty cases and
discharge the
property arrest-
ed, on receiving
bond and security
from claimant to
abide decree of
court.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case brought in the courts of the United States, exercising jurisdiction in admiralty, where a warrant of arrest, or other process *in rem*, shall be issued, it shall be the duty of the marshal to stay the execution of such process, or to discharge the property arrested if the same has been levied, on receiving from the claimant of the same a bond or stipu-

lation in double the amount claimed by the libellant, with sufficient surety, to be approved by the judge of the said court, or, in his absence, by the collector of the port, conditioned to abide and answer the decree of the court in such cause; and such bond or stipulation shall be returned to the said court, and judgment on the same, both against the principal and sureties may be recovered at the time of rendering the decree in the original cause: *Provided*, That the entire costs in any such case, in which the amount recovered by the libellant shall not exceed one hundred dollars, shall not be more than fifty per cent. of the amount recovered in the same, which costs shall be applied, first, to the payment of the usual fees for witnesses, and the commissioner, where a commissioner shall act on the case, and the residue to be divided, pro rata, between the clerk and marshal, under the direction of the judge of the court where the cause may be tried: *Provided, further*, That no attorney's or proctor's fees shall be allowed or paid out of the said costs.

Proviso—costs, how limited and applied.

No attorney's or proctor's fees to be paid out of said costs.

APPROVED, March 3, 1847.

CHAP. LXVI.—*An Act to amend an Act entitled "An Act to provide for the better Organization of the Department of Indian Affairs," and an Act entitled "An Act to regulate Trade and Intercourse with the Indian Tribes, and to prescribe Peace on the Frontiers," approved June thirtieth, eighteen hundred and thirty-four, and for other Purposes.*

March 3, 1847.

1834, ch. 162.

1831, ch. 161.

1848, ch. 118, § 3.

[EXTRACT.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the limits of each superintendency, agency, and sub-agency shall be established by the Secretary of War, either by tribes or geographical boundaries; and the superintendents, agents, and sub-agents shall be furnished with offices for the transaction of the public business, and the agents and sub-agents with houses for their residences, at the expense of the United States; and, with the assent of the Indians, be permitted to cultivate such portions of land as the President or Secretary of War may deem proper.

Limits of superintendencies, agencies, &c., to be established.

Offices and houses for superintendents, agents, &c.

SEC. 2. *And be it further enacted*, That the twentieth section of the "Act to regulate Trade and Intercourse with the Indian Tribes, and to preserve Peace on the

1834, ch. 161.

Penalty for introducing into the Indian country and selling spirituous liquors.

Indians made competent witnesses.
1834, ch. 161.

1834, ch. 162.

Annuities, goods, &c., may be paid over to heads of families.

No annuities, moneys, or goods to be distributed to Indians while in a state of intoxication.

Frontiers," approved June thirtieth, eighteen hundred and thirty-four, be, and the same is hereby so amended, that, in addition to the fines thereby imposed, any person who shall sell, exchange or barter, give or dispose of, any *siritucus* (spirituous) liquor or wine to an Indian, in the Indian country, or who shall introduce, or attempt to introduce any *sirituous* (spirituous) liquor or wine into the Indian country, except such supplies as may be necessary for the officers of the United States and the troops of the service, under the direction of the War Department, such person, on conviction thereof before the proper District Court of the United States, shall in the former case be subject to imprisonment for a period not exceeding two years, and in the latter case not exceeding one year, as shall be prescribed by the court, according to the extent and criminality of the offence. And in all prosecutions arising under this section, and under the twentieth section of the act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved June thirtieth, eighteen hundred and thirty-four, to which this is an amendment, Indians shall be competent witnesses.

SEC. 3. *And be it further enacted*, That the eleventh section of the "Act to provide for the better Organization of the Department of Indian Affairs," approved June thirtieth, eighteen hundred and thirty-four, be, and the same is hereby, so amended as to provide that all annuities or other moneys, and all goods, stipulated by treaty to be paid or furnished to any Indian tribe, shall, at the discretion of the President or Secretary of War, instead of being paid over to the chiefs, or to such persons as they shall designate, be divided and paid over to the heads of families and other individuals entitled to participate therein, or, with the consent of the tribe, be applied to such purposes as will best promote the happiness and prosperity of the members thereof, under such regulations as shall be prescribed by the Secretary of War, not inconsistent with existing treaty stipulations. And no such annuities, or moneys, or goods, shall be paid or distributed to the Indians while they are under the influence of any description of intoxicating liquor, nor while there are good and sufficient reasons for the officers or agents, whose duty it may be to make such

payments or distribution, for believing that there is any species of intoxicating liquor within convenient reach of the Indians, nor until the chiefs and head men of the tribe shall have pledged themselves to use all their influence and to make all proper exertions to prevent the introduction and sale of such liquor in their country; and all executory contracts made and entered into by any Indian for the payment of money or goods shall be deemed and held to be null and void, and of no binding effect whatsoever.

APPROVED, March 3, 1847.

CHAP. VI.—*An Act to provide Clothing for Volunteers in the service of the United States.*

Jan. 26, 1848.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in lieu of the money which, under existing laws, is allowed to volunteers as a commutation for clothing, the President be, and he is hereby, authorized to cause the volunteers to be furnished with clothing in kind, at the same rates, according to grades, as is provided for the troops of the regular army.

Clothing in kind may be furnished to volunteers, in lieu of commutation therefor.

APPROVED, January 26, 1848.

CHAP. XVIII.—*An Act to make Attachments which are made under Process issuing from the courts of the United States conform to the Laws regulating such attachments in the courts of the State.*

March 14, 1848.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, upon process instituted in any of the courts of the United States, property shall hereafter be attached to satisfy such judgment as may be recovered by the plaintiff in such process, and any contingency occurs by which, according to the laws of a State, such attachment would be dissolved upon like process pending in, or returnable to, the State courts, then such attachment or attachments made upon process issuing from, or pending in, the courts of the United States within such State shall be dissolved, the intent and meaning of this act being to place such attachments in the courts of the States and the United States upon the same footing: *Provided,* That nothing

Attachments under mesne process issuing from the courts of the United States, to be dissolved in the same manner as those under process from the respective State courts.

Provido saving

the priority of the United States.

herein contained shall interfere with any existing or future law giving priority in payments of debts to the United States.

APPROVED, March 14, 1848.

July 21, 1848.

1836, ch. 362.

Provisions of the act of July 4, 1836, ch. 362, granting half pay to widows or orphans, &c., made applicable to all widows or orphans of officers, soldiers, &c., who were in the army 1st March, 1846, and during the present war with Mexico.

Widows and orphans herein provided for to receive the same rate of pensions as is provided for in the above act.

Providso.

CHAP. CVIII.—*An Act amending the Act entitled "An Act granting Half Pay to Widows or Orphans, where their Husbands and Fathers have died of Wounds received in the Military Service of the United States," in Case of deceased Officers and Soldiers of the Militia and Volunteers, passed July fourth, eighteen hundred and thirth six.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the first section of the act entitled "An Act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes," approved July fourth, eighteen hundred and thirty-six, shall be applicable to all widows and orphans of officers, non-commissioned officers, musicians, and soldiers of the army of the United States, who were in the army of the United States on the first day of March, eighteen hundred and forty-six, or at any subsequent period during the present war between the United States and Mexico.

SEC. 2. *And be it further enacted,* That all widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or of volunteers, who have died since the first day of April, one thousand eight hundred and forty-six, or who may die during the war with Mexico, from wounds received or from disease contracted while in the line of duty, shall be entitled to the same rate of pension as is provided for in the first section of the before mentioned act, under like limitations and restrictions: *Provided,* Said death has occurred, or may hereafter occur, while said officers, non-commissioned officers, musicians, or privates, were in the service of the United States, and in the line of duty; or while returning to their usual place of residence in the United States, after having received a discharge upon a surgeon's certificate for disability incurred from wounds received, or disease contracted, while in the line of duty, or

while on their march to join the army in Mexico: *And provided further*, That this act shall not be applicable to the widows and orphans of such officers, non-commissioned officers, musicians, or privates who have not served in Mexico, or at posts or stations on the borders of Mexico; except where such officers, non-commissioned officers, musicians, or privates, have died while on their march to join the army in Mexico.

Provido.

SEC. 3. *And be it further enacted*, That all pensions under this act shall be granted under such rules, regulations, restrictions, and limitations as the Secretary of War, with the approbation of the President of the United States, may prescribe.

Pensions under this act to be granted under such rules, &c., as the Secretary of War may prescribe.

APPROVED, July 21, 1848.

CHAP. CLXVII.—*An Act for giving Effect to certain Treaty Stipulations between this and foreign Governments, for the Apprehension and delivering up of certain Offenders.*

Aug. 12, 1848.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which there now exists, or hereafter may exist, any treaty or convention for extradition between the government of the United States and any foreign government, it shall and may be lawful for any of the justices of the Supreme Court or judges of the several District Courts of the United States—and the judges of the several State courts, and the commissioners authorized so to do by any of the courts of the United States, are hereby severally vested with power, jurisdiction, and authority, upon complaint made under oath or affirmation, charging any person found within the limits of any State, district, or territory, with having committed within the jurisdiction of any such foreign government any of the crimes enumerated or provided for any such treaty or convention—to issue his warrant for the apprehension of the person so charged; that he may be brought before such judge or commissioner, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient by him to sustain the charge under the provisions of the proper treaty or convention, it shall be his duty to certify the same, together with a copy of all the testi-

In all cases in which treaties of extradition may exist between the United States and foreign governments, the justices and judges of the United States and State courts, and commissioner authorized by the United States courts, may issue warrants for the apprehension of any person charged with having committed certain offences within the limits of such foreign governments.

If, on hearing, the evidence be deemed sufficient to sustain the charge, the same to be certified,

with copy of the testimony, to the Secretary of State, that a warrant may issue, upon requisition from the proper authority, for the surrender of such offender, &c.

Copies of depositions upon which original warrant may have been granted in such foreign countries, &c., may be received in evidence.

Secretary of State, under his hand and seal of office, may order such offenders to be delivered to such person or persons as may be authorized by such foreign government to receive them, &c.

Cases of escape provided for.

When any person or persons committed under this act, &c., shall not be delivered up and conveyed out of the United States within two months after such commit-

money taken before him, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign government, for the surrender of such person, according to the stipulations of said treaty or convention; and it shall be the duty of the said judge or commissioner to issue his warrant for the commitment of the person so charged to the proper gaol, there to remain until such surrender shall be made.

SEC. 2. *And be it further enacted*, That in every case of complaint as aforesaid, and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which an original warrant in any such foreign country may have been granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

SEC. 3. *And be it further enacted*, That it shall be lawful for the Secretary of State, under his hand and seal of office, to order the person so committed to be delivered to such person or persons as shall be authorized, in the name and on behalf of such foreign government, to be tried for the crime of which such person shall be so accused, and such person shall be delivered up accordingly; and it shall be lawful for the person or persons authorized, as aforesaid, to hold such person in custody, and to take him or her to the territories of such foreign government, pursuant to such treaty; and if the person so accused shall escape out of any custody to which he or she shall be committed, or to which he or she shall be delivered, as aforesaid, it shall be lawful to retake such person in the same manner as any person accused of any crime against the laws in force in that part of the United States to which he or she shall escape may be retaken, on an escape.

SEC. 4. *And be it further enacted*, That when any person who shall have been committed under this act, or any such treaty, as aforesaid, to remain until delivered up in pursuance of a requisition, as aforesaid, shall not be delivered up pursuant thereto, and conveyed out of the United States within two calendar months after such commitment, over and above the

time actually required to convey the prisoner from the gaol to which he or she may have been committed, by the readiest way, out of the United States, it shall, in every such case, be lawful for any judge of the United States, or of any State, upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of State, to order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such judge why such discharge ought not to be ordered.

SEC. 5. *And be it further enacted*, That this act shall continue in force during the existence of any treaty of extradition with any foreign government, and no longer.

SEC. 6. *And be it further enacted*, That it shall be lawful for the courts of the United States, or any of them, to authorize any person or persons to act as a commissioner or commissioners, under the provisions of this act; and the doings of such person or persons so authorized, in pursuance of any of the provisions aforesaid, shall be good and available to all intents and purposes.

APPROVED, August 12, 1848.

ments, any judge of the United States or State courts may discharge him or them from custody, unless, &c.

This act to continue in force during the existence of any treaty of extradition, &c., and no longer.

Courts of the United States may authorize persons to act as commissioners under this act, &c.

CHAP CLXXX.—An Act in Relation to Military Land Warrants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any non-commissioned officer, musician, or private, or his widow or heirs, who shall receive and hold in his own right a land warrant, issued by the government of the United States for military service, may locate the same in or on legal subdivision, on any public land subject to private entry, taking said land at the price at which the same is subject to private entry, and reckoning the warrant at one dollar and twenty-five cents per acre for the number of acres therein contained, and paying the balance, if any, in money; but no claim shall exist on the government to pay for any balance on said warrant in money.

APPROVED, August 14, 1848.

Aug. 14, 1848.

Location of certain military land warrants authorized.

Feb. 22, 1849.

1849, ch. 82.

Manner in which certain records, &c., may be authenticated and read in evidence.

[This section is explained by act of 1849, ch. 82.]

Solicitor of the Treasury to cause a seal to be made for his office.

Books, papers, &c., in the War, Navy, Treasury, Post-office, and Attorney-General's

CHAP. LXI.—An Act for authenticating certain Records.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it may and shall be lawful for the keepers or persons having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents, of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of the head of any one of the departments, the Solicitor of the Treasury, or the Commissioner of the General Land Office, to authenticate the same under his hand and seal, and certify the same to be correct and true copies of such laws, judgments, orders, decrees, journals, correspondence, or other public documents; and when the same shall be certified by such minister, consul, or judge, mentioned in the first section of this act, under his hand and seal of office, to be true copies of the originals, the same shall be sealed up by him and returned to the Solicitor of the Treasury, who shall file the same in his office, and cause it to be recorded in a book to be kept for that purpose. A copy of said laws, judgments, orders, decrees, journals, correspondence, or other public documents, so filed, or of the same so recorded in said book, may be read in evidence in all courts where the title to land claimed by or under the United States may come into question, equally with the originals thereof.

SEC. 2. *And be it further enacted,* That the Solicitor of the Treasury shall cause a seal to be made and provided for his office, with such device as the President of the United States shall approve, and copies of any public documents, records, books, or papers, belonging to or on the files of the said office, under the signature of the said Solicitor, or, when the office shall be vacant, under the signature of such officer as may be officiating for the time being, accompanied by an impress of the said seal, shall be competent evidence in all cases equally with the original records, documents, books, or papers.

SEC. 3. *And be it further enacted,* That all books, papers, documents, and records in the War, Navy, Treasury, and Post-Office Departments, and the Attorney-General's office, may be copied and certified under

seal in the same manner as those in the State Department may now by law be, and with the same force and effect, and the said Attorney-General shall cause a seal to be made and provided for his office, with such device as the President of the United States shall approve.

APPROVED, February 22, 1849.

Dep'ts, may be copied and certified in the same manner as in the State Dep't. Attorney-Gen'l to have a seal.

CHAP. LXII.—*An Act granting five Years' Half Pay to certain Widows and Orphans of Officers, Non commissioned Officers, Musicians, and Privates, both Regulars and Volunteers.*

Feb. 22, 1849.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the second section of the act entitled "An Act amending the act entitled 'An Act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States,' in cases of deceased officers and soldiers of the militia and volunteers," approved July twenty-first, eighteen hundred and forty-eight, shall be so construed as to embrace all widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or of volunteers, who have received an honorable discharge, or who remained to the date of their death in the military service of the United States, and who have died, since their return to their usual place of residence, of wounds received, or from disease contracted while in line of duty, subject to such rules, regulations, and restrictions, as the Secretary of War, by the third section of said act, is authorized to impose.

How the act of 20th July, 1848, ch. 108, amending the act granting half pay to widows, orphans, &c., shall be construed.

APPROVED, February 22, 1849.

CHAP. LXXXII.—*An Act to amend an Act entitled "An Act for authenticating certain Records," approved February twenty-second, eighteen hundred and forty nine.*

March 2, 1849.
1849, ch. 61.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the act entitled "An Act for authenticating certain records," approved February twenty-second, eighteen hundred and forty-nine,

First section of act for authenticating certain records amended and explained.

be, and the same is hereby, amended so as to read as follows:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it may and shall be lawful for the keepers or persons having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of one of the head of one of the departments, the Solicitor of the Treasury, or the Commissioner of the General Land Office, to authenticate the same under his hand and seal, and certify the same to be correct and true copies of such laws, judgments, orders, decrees, journals, correspondence, or other public documents; and when the same shall be certified by an American minister or consul under his hand and seal of office, or by a judge of one of the United States courts under his hand and seal, to be true copies of the originals; the same shall be sealed up by him and returned to the Solicitor of the Treasury, who shall file the same in his office, and cause it to be recorded in a book to be kept for that purpose. A copy of said laws, judgments, orders, decrees, journals, correspondence, or other public documents so filed, or of the same so recorded in said book, may be read in evidence in all courts, where the title to land claimed by or under the United States may come into question, equally with the originals thereof.

APPROVED, March 2, 1849.

March 3, 1849.

CHAP. CXXIX.—*An Act to provide for the Payment of Horses, and other Property lost or destroyed in the Military Service of the United States.*

Payment for horses, and other property lost or destroyed in the military service of the United States provided for.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any field, or staff, or other officer, mounted militia-man, volunteer, ranger, or cavalry, engaged in the military service of the United States since the eighteenth of June, eighteen hundred and twelve, or who shall hereafter be in said service, and has sustained, or shall sustain, damage without any fault or negligence on his part, while in said service, by the loss

of a horse in battle, or by the loss of a horse wounded in battle, and which has died or shall die of said wound, or, being so wounded, shall be abandoned by order of his officer and lost, or shall sustain damage by the loss of any horse by death or abandonment because of the unavoidable dangers of the sea when on board an United States transport vessel, or because the United States failed to supply transportation for the horse, and the owner was compelled by the order of his commanding officer to embark and leave him, or in consequence of the United States failing to supply sufficient forage, or because the rider was dismounted and separated from his horse and ordered to do duty on foot at a station detached from his horse, or when the officer in the immediate command ordered, or shall order, the horse turned out to graze in the woods, prairies, or commons, because the United States failed, or shall fail, to supply sufficient forage, and the loss was or shall be consequent thereof, or for the loss of necessary equipage, in consequence of the loss of his horse, as aforesaid, shall be allowed and paid the value thereof, not to exceed two hundred dollars: *Provided*, That if any payment has been, or shall be, made to any one aforesaid, for the use and risk, or for forage after the death, loss, or abandonment of his horse, said payment shall be deducted from the value thereof, unless he satisfied, or shall satisfy, the paymaster at the time he made, or shall make, the payment, or thereafter show, by proof, that he was remounted, in which case the deduction shall only extend to the time he was on foot: *And provided, also*, If any payment shall have been, or shall hereafter be, made to any person above mentioned, on account of clothing to which he was not entitled by law, such payment shall be deducted from the value of his horse or accoutrements.

Provided,

Provided,

SEC. 2. *And be it further enacted*, That any person who has sustained, or shall sustain, damage by the capture or destruction by an enemy, or by the abandonment or destruction by the order of the commanding general, the commanding officer, or quartermaster of any horse, mule, ox, wagon, cart, boat, sleigh, or harness, while such property was in the military service of the United States, either by im-

Payment provided for horses, mules, oxen, wagons, carts, &c. captured or destroyed by the enemy.

pressment or contract, except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner; and any person who has sustained, or shall sustain, damage by the death or abandonment and loss of any such horse, mule, or ox, while in the service aforesaid, in consequence of the failure on the part of the United States to furnish the same with sufficient forage, and any person who has lost, or shall lose, or has had, or shall have, destroyed by unavoidable accident, any horse, mule, ox, wagon, cart, boat, sleigh, or harness, while such property was in the service aforesaid, shall be allowed and paid the value thereof at the time he entered the service: *Provided*, It shall appear that such loss, capture, abandonment, destruction, or death, was without any fault or negligence on the part of the owner of the property, and while it was actually employed in the service of the United States.

Proviso.

Claims provided for under this act, to be adjusted by Third Auditor of the Treasury.

SEC. 3. *And be it further enacted*, That the claims provided for under this act shall be adjusted by the Third Auditor, under such rules as shall be prescribed by the Secretary of War, under the direction or with the assent of the President of the United States, as well in regard to the receipt of applications of claimants as the species and degree of evidence, the manner in which such evidence shall be taken and authenticated, which rules shall be such as in the opinion of the President shall be best calculated to obtain the object of this act, paying a due regard as well to the claims of individuals' justice as to the interest of the United States; which rules and regulations shall be published for four weeks in such newspapers, in which the laws of the United States are published, as the Secretary of War shall direct.

Adjudications upon claims to be recorded by Third Auditor, and when favorable, to be paid at the Treasury upon his certificate.

SEC. 4. *And be it further enacted*, That in all adjudications of said Auditor upon the claims above mentioned, whether such judgments be in favor of or adverse to the claim, shall be entered in a book provided by him for that purpose, and under his direction; and when such judgments shall be in favor of such claim, the claimant or his legal representative shall be entitled to the amount thereof, upon the production of a copy thereof, certified by said Auditor, at the treasury of the United States.

SEC. 5. *And be it further enacted,* That in all instances where any minor has been, or shall be, engaged in the military service of the United States, and was, or shall be, provided with a horse or equipments, or with military accoutrements by his parent or guardian, and has died, or shall die, without paying for said property, and the same has been, or shall be, lost, captured, destroyed, or abandoned in the manner before mentioned, said parent or guardian shall be allowed pay therefor, on making satisfactory proof, as in other cases, and the further proof that he is entitled thereto by having furnished the same.

Parents or guardians to be allowed for lost horses, &c., provided for minors.

SEC. 6. *And be it further enacted,* That in all instances where any person other than a minor has been, or shall be, engaged in the military service aforesaid, and has been, or shall be, provided with a horse or equipment, or with military accoutrements by any person, the owner thereof, who has risked, or shall take the risque of such horse, equipments, or military accoutrements on himself, and the same has been, or shall be, lost, captured, destroyed, or abandoned in the manner before mentioned, such owner shall be allowed pay therefor, on making satisfactory proof, as in other cases, and the further proof that he is entitled thereto, by having furnished the same, and having taken the risque on himself.

When persons other than minors have been provided with horses, &c., the owners to be paid.

SEC. 7. *And be it further enacted,* That in all cases where horses have been condemned by a board of officers, on account of their unfitness for service, in consequence of the government failing to supply forage, all such horses and their equipage shall be allowed and paid for, whenever the facts shall be proven, by legal and satisfactory evidence, whether oral or written, that such condemned horse and the equipage was turned over to the quartermaster of the army, whether any receipt therefor was given and produced or not.

Horses condemned as unfit for service, in consequence of want of forage, to be paid for.

APPROVED, March 3, 1849.

RESOLUTION.

March 2, 1849.

[No. 14.]-*Joint Resolution relative to Evidence in Applications for Pensions by Widows of deceased Soldiers, under the Act of July twenty-first, eighteen hundred and forty eight.*

What shall be considered satisfactory evidence in applications by certain widows for pensions. 1848, ch. 108.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all applications for pensions by the widows of deceased soldiers, under the act of July twenty-first, eighteen hundred and forty-eight, the returns on the rolls of the disease of which the soldier died, and the official opinion of the Surgeon-General founded thereon, that from the nature of the disease it was contracted while the soldier was in the line of his duty, shall be considered satisfactory evidence thereof, without the proof now required at the Pension Office; and that it shall be the duty of the Commissioner of Pensions, in all cases of application for pensions under said act, to apply to the proper officers for said evidence, without requiring the applicant to furnish the same.

APPROVED, March 3, 1849.

July 29, 1850.

CHAP. XXX.—*An act to provide for holding the Courts of the United States in Case of the Sickness or other Disability of the Judges of the District Courts.*

Provisions made for holding United States courts in the event of the sickness or other disability of the district judge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case of the sickness or other disability of any district judge of any judicial district of the United States, which shall prevent him from holding any stated or appointed term of the District Court of his district, or of the Circuit court therein in the absence of the circuit judge, and upon the fact of such sickness or other disability being certified by the clerk of such District Court to the circuit judge of the circuit within which such district may lie, it shall be lawful for such circuit judge, if, in his judgment, the public interests shall so require, to designate and appoint the district judge of any other judicial district of the United States within the same circuit, to hold the District Court or Circuit Court in case of the sickness or absence of the circuit judge, in the place of, and discharge all the judicial duties of, the district judge who may be sick or otherwise disabled as aforesaid, while

such sickness or other disability shall continue; which appointment shall be filed in the office of the clerk of the said District Court, and be entered on the minutes of the court; and a certified copy thereof, under the seal of the court, be by such clerk transmitted to the judge so designated and appointed.

SEC. 2. *And be it further enacted*, That in case there be no circuit judge resident within such circuit, or of his absence therefrom, or inability to execute the provisions of the preceding section, or of the disability or neglect of the district judges designated by him, to hold the courts and transact the business within the district for which he or they may be so designated, the clerk of such District Court shall certify such fact or facts to the chief justice of the United States; and it shall thereupon be lawful for the chief justice of the United States to designate and appoint, in manner aforesaid, any district judge within said circuit, or of any judicial district within a circuit next immediately contiguous to the one within which such disability exists, which appointment shall be transmitted to such clerk, and by him acted on as directed in the preceding section.

SEC. 3. *And be it further enacted*, That it shall be the duty of such district judge as shall be for that purpose designated and appointed, (as in the preceding sections provided,) to hold the District Court or Circuit Court as aforesaid, and discharge all the judicial duties of the district judge, who shall be sick or otherwise disabled as aforesaid, so long as such sickness or other disability shall continue; and all the acts and proceedings in said courts, or by or before the said district judge so designated and appointed, shall have the same force, effect, and validity as if done and transacted by and before the district judge of said district.

SEC. 4. *And be it further enacted*, That it shall be lawful for such circuit judge, or the chief justice of the United States, as the case may be, from time to time, if in his judgment the public interests shall so require, to make a new designation and appointment of any other district judge, of any judicial district within the same circuits as aforesaid, with the powers and for the duties and purposes mentioned in the

In case of non-residence or inability of circuit judge, the clerk of the District Court to notify the chief justice of the inability of the judge to hold a court, by sickness or otherwise, and provision made therefor.

It shall be the duty of the district judge, appointed for that purpose, to hold the courts specified.

If necessary, a new designation to be made by the chief justice, &c.

preceding sections of this act, and to revoke and determine any previous designation and appointment.

The district judge appointed to hold the courts designated to be allowed his travelling expenses when certified by the clerk, &c.

SEC. 5. *And be it further enacted*, That the district judge so designated and appointed to hold the court and discharge the duties of the district judge of another district, and who shall hold such court or discharge such duties, shall be allowed his reasonable expenses of travel to and from and of residence in such other district necessarily incurred by reason of such designation and appointment,* and his obedience thereto; and such expenses shall, when certified by the clerk and the district attorney of the judicial district within which such services shall have been performed, be paid by the marshal of such district, and allowed him in his accounts with the United States.

APPROVED, July 29, 1850.

Sept. 9, 1850.

CHAP. LI.—*An Act to establish a Territorial Government for Utah.*

The boundary of the Territory of Utah defined.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the Territory of the United States included within the following limits, to wit: bounded on the west by the State of California, on the north by the Territory of Oregon, and on the east by the summit of the Rocky Mountains, and on the south by the thirty-seventh parallel of north latitude, be, and the same is hereby, created into a temporary government, by the name of the Territory of Utah; and, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

Provided

Executive power vested in a governor; his duties defined.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Utah shall be vested in a governor, who shall hold his office for four years, and until his successor shall be

appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect: he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States: he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives, and the President of the Senate, for the use of Congress. And in the case of the death, removal, resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

Secretary's his
duties defined.

To act as govern-
or in certain con-
tingencies.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall consist of twenty-six members, possessing the

Legislative power:
how vested. The legislative
assembly to consist of a Council
and House of Representatives.
The Council shall consist of thirteen
members, and the House of
Representatives of twenty-six.

same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and House of Representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said Council districts for members of the Council, shall be declared by the governor to be duly elected to the Council; and the person or persons authorized to be elected having the highest number of votes for the House of Representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be duly elected members of the House of Representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such a tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day, as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives, according to population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days.

SEC. 5. *And be it further enacted*, That every free

Previous to the first election, a census to be taken.

Elections: how conducted.

Proviso.

Further proviso.

white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, including those recognized as citizens by the treaty with the republic of Mexico, concluded February second, eighteen hundred and forty-eight.

Qualifications of voters.

Proviso.

SEC. 6. *And be it further enacted*, That the legislative power of said Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

Legislative power of the Territory defined.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Utah. The governor shall nominate, and, by and with the advice and consent of the legislative Council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the Council and House of Representatives, and all other offices.

How township, district, and county officers are to be appointed.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been in-

No member of legislative assembly to hold certain offices during his term of election,

or for one year thereafter. Officers of the United States, except postmasters, not to be members of assembly, or hold office.

The judicial power: in whom vested, and how to be exercised.

District Courts.

Jurisdiction of courts and justices of the peace, etc.

Proviso.

Clerk.

Writs of error, &c.

Clerk.

creased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in justices of the peace. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a District Court shall be held in each of said districts by one of the justices of the Supreme Court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the Probate Courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said Supreme and District Courts, respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said District Courts to the Supreme Court, under such regulations as may be prescribed by law; but in no case removed to the Supreme Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and ap-

peals from the final decisions of said Supreme Court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars, except only that, in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said Supreme Court, without regard to the value of the matter, property, or title in controversy; and except, also, that a writ of error or appeal shall also be allowed to the Supreme Court of the United States, from the decisions of the said Supreme Court created by this act, or of any judge thereof, or of the District Courts created by this act, or of any judge thereof, upon any writ of habeas corpus involving the question of personal freedom; and each of the said District Courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the Circuit and District Courts of the United States; and the said Supreme and District Courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal, in all such cases, shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the District Courts of Oregon Territory now receive for similar services.

SEC. 10. *And be it further enacted,* That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner

Writs of error
and appeals shall
be allowed, &c.

Exceptions.

Fees of clerk.

Attorney and
marshal: their
fees and duties.

removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as Circuit and District Courts of the United States: he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees as the marshal of the District Court of the United States for the present Territory of Oregon; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

Governor, secretary, chief justice and associate justices, attorney and marshal: how to be appointed.

Oaths

SEC. 11. *And be it further enacted,* That the governor, secretary, chief justice and associate justices, attorney and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars.

Salary of governor.

Salary of chief justice and associate justices.

Salary of secretary.

The said salaries shall be paid quarter-yearly, at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for twenty miles' travel, in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor, to defray the contingent expenses of the Territory. There shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

Compensation of members of the legislative assembly.

Contingent expenses provided for.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Utah shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And the sum of twenty thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Utah to be applied by the governor and legislative assembly to the erection of suitable public buildings at the seat of government.

Legislative assembly to hold its first sessions as directed by the governor.

Seat of government.

Appropriation for public buildings.

SEC. 13. *And be it further enacted*, That a delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Rep-

A delegate to be elected to Congress of the United States.

representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly: *Provided*, That said delegate shall receive no higher sum for mileage than is allowed by law to the delegate from Oregon.

Proviso.

Appropriation for the purchase of a library.

SEC. 14. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, to be expended by and under the direction of the said governor of the territory of Utah, in the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the Supreme Court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

Lands to be surveyed, how to be disposed of.

SEC. 15. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

Judicial district: how defined.

SEC. 16. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

The Constitution

SEC. 17. *And be it further enacted*, That the Con-

stitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same, or any provision thereof may be applicable.

APPROVED, September 9, 1850.

and laws of the U. States to extend over the Territory of Utah so far as applicable.

CHAP. LII.—*An Act to authorize Notaries Public to take and certify Oaths, Affirmations, and Acknowledgments in certain Cases.*

Sept. 16, 1850.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which, under the laws of the United States, oaths, or affirmations, or acknowledgments may now be taken or made before any justice or justices of the peace of any State or Territory, such oaths, affirmations, or acknowledgments may be hereafter also taken or made by or before any notary public duly appointed in any State or Territory, and, when certified under the hand and official seal of such notary, shall have the same force and effect as if taken or made by or before such justice or justices of the peace. And all laws and parts of laws for punishing perjury, or subornation of perjury, committed in any such oaths or affirmations, when taken or made before any such justice of the peace, shall apply to any such offence committed in any oaths or affirmations which may be taken under this act before a notary public, or commissioner, as hereinafter named: *Provided always,* That on any trial for either of these offences, the seal and signature of the notary shall not be deemed sufficient in themselves to establish the official character of such notary, but the same shall be shown by other and proper evidence.

Oaths, &c. made before notaries, to have the same force as if taken before Justices of the peace. Perjury punishable as in other cases.

Provido.

SEC. 2. *And be it further enacted,* That all the powers and authority conferred in and by the preceding section of this act upon notaries public be, and the same are hereby, vested in, and may be exercised by, any commissioner appointed, or hereafter to be appointed, by any Circuit Court of the United States, under any act of Congress authorizing the appointment of commissioners to take bail, affidavits, or depositions, in causes pending in the courts of the United States.

Commissioners appointed by Circuit Courts, to exercise powers above defined.

APPROVED, September 16, 1850.

Sept. 18. 1850.
1793, ch. 7.

Commissioners to
execute the pow-
ers and duties of
this act.

1789, ch. 20.

To be appointed
by the Superior
Court of each
Territory.

Powers and du-
ties.

Courts authoriz-
ed to enlarge the
number of com-
missioners.

Jurisdiction of
commissioners
concurrent with
that of judges,

CHAP. LX.—*An Act to amend, and supplementary to, the Act entitled "An Act respecting Fugitives from Justice, and Persons escaping from the Service of their Masters," approved February twelfth, one thousand seven hundred and ninety-three.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the persons who have been, or may hereafter be, appointed commissioners, in virtue of any act of Congress, by the Circuit Courts of the United States, and who, in consequence of such appointment, are authorized to exercise the powers that any justice of the peace, or other magistrate of any of the United States, may exercise in respect to offenders for any crime or offence against the United States, by arresting, imprisoning, or bailing the same under and by virtue of the thirty-third section of the act of the twenty-fourth of September seventeen hundred and eighty-nine, entitled "An Act to establish the judicial courts of the United States," shall be, and are hereby, authorized and required to exercise and discharge all the powers and duties conferred by this act.

SEC. 2. *And be it further enacted,* That the Superior Court of each organized Territory of the United States shall have the same power to appoint commissioners to take acknowledgments of bail and affidavits, and to take depositions of witnesses in civil causes, which is now possessed by the Circuit Court of the United States; and all commissioners who shall hereafter be appointed for such purposes by the Superior Court of any organized Territory of the United States shall possess all the powers, and exercise all the duties, conferred by law upon the commissioners appointed by the Circuit Courts of the United States for similar purposes, and shall moreover exercise and discharge all the powers and duties conferred by this act.

SEC. 3. *And be it further enacted,* That the Circuit Courts of the United States, and the Superior Courts of each organized Territory of the United States, shall from time to time enlarge the number of commissioners, with a view to afford reasonable facilities to reclaim fugitives from labor, and to the prompt discharge of the duties imposed by this act.

SEC. 4. *And be it further enacted,* That the commissioners above named shall have concurrent jurisdiction with the judges of the Circuit and District Courts

of the United States, in their respective circuits and districts within the several States, and the judges of the Superior Courts of the Territories, severally and collectively, in term-time and vacation; and shall grant certificates to such claimants, upon satisfactory proof being made, with authority to take and remove such fugitives from service or labor, under the restrictions herein contained, to the State or Territory from which such persons may have escaped or fled.

SEC. 5. *And be it further enacted*, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant, or other process, when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of such claimant, on the motion of such claimant, by the Circuit or District Court for the district of such marshal; and after arrest of such fugitive, by such marshal or his deputy, or whilst at any time in his custody under the provisions of this act, should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshal shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the full value of the service or labor of said fugitive in the State, Territory, or District whence he escaped: and the better to enable the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; with authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid, to summon and call to their aid the bystanders, or *posse comitatus* of the proper county, when necessary to ensure a faithful observance of the clause of the Constitution referred to, in conformity with the provisions of this act; and all

and shall grant certificates to take fugitives from service.

Duty of marshals and deputies.

Penalty for refusing to execute the same.

Liable for value of a fugitive escaping after his arrest.

Commissioners authorized to appoint persons to execute warrants issued by them.

Citizens to render aid.

good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose; and said warrants shall run, and be executed by said officers, any where in the State within which they are issued.

Fugitives from service may be reclaimed for the owner or authorized agent, by warrant of court, judge, or commissioner for apprehension.

Duties of court, judge, or commissioner, in cases of trial.

SEC. 6. *And be it further enacted*, That when a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due, or his, her, or their agent or attorney, duly authorized, by power of attorney, in writing, acknowledged and certified under the seal of some legal officer or court of the State or Territory in which the same may be executed, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, of the proper circuit, district, or county, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive, where the same can be done without process, and by taking, or causing such person to be taken, forthwith before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner; and upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized to administer an oath and take depositions under the laws of the State or Territory from which such person owing service or labor may have escaped, with a certificate of such magistracy or other authority, as aforesaid, with the seal of the proper court or officer thereto attached, which seal shall be sufficient to establish the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid, that the person so arrested does in fact owe service or labor to the person or persons claiming him or her, in the State or Territory from which such fugitive may have escaped as aforesaid, and that said person escaped, to make

out and deliver to such claimant his or her agent or attorney, a certificate setting forth the substantial facts as to the service or labor due from such fugitive to the claimant, and of his or her escape from the said State or Territory in which such service or labor was due, to the State or Territory in which he or she was arrested, with authority to such claimant, or his or her agent or attorney, to use such reasonable force and restraint as may be necessary, under the circumstances of the case, to take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the first [fourth] section mentioned, shall be conclusive of the right of the person or persons in whose favor granted, to remove such fugitive to the State or Territory from which he escaped, and shall prevent all molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.

Testimony of fugitive not admitted.

SEC. 7. *And be it further enacted*, That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her, or them, from arresting such a fugitive from service or labor, either with or without process as aforesaid, or shall rescue, or attempt to rescue, such fugitive from service or labor, from the custody of such claimant, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and declared; or shall aid, abet, or assist such person so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons legally authorized as aforesaid; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which

Any person knowingly hindering the arrest of a fugitive, or attempting to rescue one from custody, or aiding to escape, or harboring, shall be fined and imprisoned.

Penalties.

Additional damages.

such offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of one thousand dollars, for each fugitive so lost as aforesaid, to be recovered by action of debt, in any of the District or Territorial Courts aforesaid, within whose jurisdiction the said offence may have been committed.

Fees for services of marshals, deputies, &c.

SEC. 8. *And be it further enacted*, That the marshals, their deputies, and the clerks of the said District and Territorial Courts, shall be paid, for their services, the like fees as may be allowed to them for similar services in other cases; and where such services are rendered exclusively in the arrest, custody, and delivery of the fugitive to the claimant, his or her agent or attorney, or where such supposed fugitive may be discharged out of custody for the want of sufficient proof as aforesaid, then such fees are to be paid in the whole by such claimant, his agent or attorney; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, upon the delivery of the said certificate to the claimant, his or her agent or attorney; or a fee of five dollars in cases where the proof shall not, in the opinion of such commissioner, warrant such certificate and delivery, inclusive of all services incident to such arrest and examination, to be paid, in either case, by the claimant, his or her agent or attorney. The person or persons authorized to execute the process to be issued by such commissioners for the arrest and detention of fugitives from service or labor as aforesaid, shall also be entitled to a fee of five dollars each for each person he or they may arrest and take before any such commissioner as aforesaid, at the instance and request of such claimant, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them; such as attending at the examination, keeping the fugitive in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner; and, in general, for performing

Commissioner's fees.

Fee for executing process.

Additional fees.

such other duties as may be required by such claimant, his or her attorney or agent, or commissioner in the premises, such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or country, as near as may be practicable, and paid by such claimants, their agents or attorneys, whether such supposed fugitives from service or labor be ordered to be delivered to such claimants by the final determination of such commissioners or not.

SEC. 9. *And be it further enacted*, That, upon affidavit made by the claimant of such fugitive, his agent or attorney, after such certificate has been issued, that he has reason to apprehend that such fugitive will be rescued by force from his or their possession before he can be taken beyond the limits of the State in which the arrest is made, it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the State whence he fled, and there to deliver him to said claimant, his agent, or attorney. And to this end, the officer aforesaid is hereby authorized and required to employ so many persons as he may deem necessary to overcome such force, and to retain them in his service so long as circumstances may require. The said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses, as are now allowed by law for transportation of criminals, to be certified by the judge of the district within which the arrest is made, and paid out of the treasury of the United States.

When claimant or his agent apprehends a rescue, the officer making the arrest is to remove the fugitive to the State whence he fled. If necessary, to employ aid.

Compensation of officer.

SEC. 10. *And be it further enacted*, That when any person held to service or labor in any State or Territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent or attorney, may apply to any court of record therein, or judge thereof in vacation, and make satisfactory proof to such court, or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon the court shall cause a record to be made of the matters so proved, and also a general description of the person so escaping, with such convenient certainty as may be; and a transcript of such record, authenti-

Evidence necessary to obtain arrest and delivery of fugitives.

cated by the attestation of the clerk and of the seal of the said court, being produced in any other State, Territory, or district in which the person so escaping may be found, and being exhibited to any judge, commissioner, or other officer authorized by the law of the United States to cause persons escaping from service or labor to be delivered up, shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned. And upon the production by the said party of other and further evidence if necessary, either oral or by affidavit, in addition to what is contained in the said record of identity of the person escaping, he or she shall be delivered up to the claimant. And the said court, commissioner, judge, or other person authorized by this act to grant certificates to claimants of fugitives, shall, upon the production of the record and other evidences aforesaid, grant to such claimant a certificate of his right to take any such person identified and proved to be owing service or labor as aforesaid, which certificate shall authorize such claimant to seize or arrest and transport such person to the State or Territory from which he escaped: *Provided*, That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid. But in its absence the claim shall be heard and determined upon other satisfactory proofs, competent in law.

Proviso.

APPROVED, September 18, 1850.

RESOLUTION.

Sept. 28, 1850.

[No. 20.]—*Joint Resolution explanatory of certain Acts therein mentioned.*

Provisions of second section of the "Act granting half pay to widows or orphans," &c. of July 21, 1843, extended. 1843, ch. 108. 1849, ch. 62.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the second section of the act entitled "An Act amending the act entitled 'An Act granting half-pay to widows or orphans where their husbands and fathers have died of wounds received in the military service of the United States,'" approved July twenty-one, eighteen hundred and forty-eight, extended by the act of February twenty-two, eighteen

hundred and forty-nine, shall be construed to embrace the widows and orphans of all persons designated therein, who died while in actual service in the late war with Mexico, or in going to and returning from the same; and also to the widows and orphans of all such persons as, having been honorably discharged, or having resigned, shall have died after the passage of said last mentioned act, or who may hereafter die, of wounds received or from disease contracted while in said service: *Provided*, That the army rolls showing the death of any of said persons in the army, shall be sufficient evidence to establish that fact.

APPROVED, September 28, 1850.

CHAP. XIX.—*An Act to make Land Warrants assignable, and for other purposes.* March 22, 1852.

[EXTRACT.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all warrants for military bounty land which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are hereby declared to be assignable, by deed or instrument of writing made and executed after the taking effect of this act according to such form, and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owner of the warrant or location: *Provided*, That any person entitled to pre-emption right to any land shall be entitled to use any such land warrant in payment for the same at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified: *Provided*, That the warrants which have been, or may hereafter be issued in pursuance of said laws or of this act may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States, subject to private entry at the time of such location, at the minimum price. *Provided, further*, That when said warrant shall be located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per

Military bounty land warrants and locations, under existing or future laws, made assignable.

To be received for pre-emption payments.

How located.

Difference to be paid in cash where the minimum price is more than \$1.25 per acre.

acre, the locator of said warrants shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on.

APPROVED, March 22, 1852.

April 2, 1852.
1850, ch. 30.

CHAP. XX.—*An Act amendatory of the Act entitled "An Act to provide for holding the Courts of the United States in Case of the sickness or other disability of the Judges of the District Courts," approved July twenty-nine, eighteen hundred and fifty.*

Provision for
courts when there
is an accumula-
tion of business
or other urgency,
so as to require
judicial assist-
ance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authority conferred by the act aforesaid, hereby amended, may be exercised by a Circuit Judge or by the Chief Justice of the United States as in the said act directed, whenever, on the certificate of the clerk of the Circuit or District Court, under the seal of the court, it shall be made to appear, to the satisfaction of such judge or chief justice, that the public interests, from the accumulation or urgency of judicial business in any district, shall require it to be done; and the District Judge so designated and appointed, shall have and exercise the same powers within such district as if the District Judge resident therein were prevented by sickness or other disability from performing his judicial duties; and it shall be lawful in case of such appointment, for each of the said District Judges separately to hold a District or Circuit Court at the same time in such district, and discharge all the judicial duties of a District Judge therein, but no such District Judge shall hear appeals from the District Court.

APPROVED, April 2, 1852.

Aug. 31, 1852.

CHAP. CVIII.—*An Act making Appropriations for the Civil and Diplomatic Expenses of the Government for the Year ending the thirtieth of June, eighteen hundred and fifty-three, and for other purposes.*

[EXTRACT.]

Extraordinary
expenses in ex-
ecuting laws.

SEC. 11. *And be it further enacted, That where the ministerial officers of the United States have or shall*

incur extraordinary expense, in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof, under the special taxation of the district or circuit court of the district in which the said services have been, or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary.

APPROVED, August 31, 1852.

CHAP. XLI.—*An Act to continue Half-Pay to certain Widows and Orphans.* Feb. 3, 1853.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all widows and orphans who were granted and allowed five years half-pay by the provisions of the act approved the twenty-first day of July, one thousand eight hundred and forty-eight, entitled "An act amending the act granting half-pay to widows or orphans where their husbands or fathers have died of wounds received in the military service of the United States, in case of deceased officers and soldiers of the militia and volunteers, passed July fourth, one thousand eight hundred and thirty-six," or an act approved the twenty-second day of February, one thousand eight hundred and forty-nine, entitled "An act granting five years half-pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regulars and volunteers," be and they are hereby granted a continuance of said half-pay, under like limitations and restrictions, for a further period of five years, to commence at the expiration of the half-pay provided for by the aforesaid acts: *Provided, however,* That in case of the death or marriage of such widow before the expiration of said term of five years, the half-pay for the remainder of the term shall go to the child or children of the deceased officer or soldier, whilst under the age of sixteen years; and in like manner, the child or children of such deceased, when there is no widow, shall be paid no longer than while there is a child or children under the age aforesaid: *And provided further,* That no greater sum shall be allowed in any case to the widow or the child or chil-

Half-pay granted by acts of 1848, ch. 108, or 1836, ch. 362, or 1849, ch. 62, continued for five years.

Proviso.

Act of 1819, ch.
62, extended to
other widows and
heirs.

dren of any officer than the half-pay of a Lieutenant-Colonel: *And provided further*, That the act approved the twenty-second of February, eighteen hundred and forty-nine, "granting five years half-pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regular and volunteer," be so extended and construed as to embrace the widows and minor heirs of the officers, non-commissioned officers, musicians, and privates of the regulars, militia, and volunteers of the war of eighteen hundred and twelve, and of the various Indian wars since seventeen hundred and ninety.

Pensions of wid-
ows of revolu-
tionary soldiers.

SEC. 2. *And be it further enacted*, That the widows of all officers, non-commissioned officers, musicians, and privates of the Revolutionary army, who were married subsequent to January, anno Domini eighteen hundred, shall be entitled to a pension in the same manner as those who were married before that date.

APPROVED, February 3, 1853.

Feb. 26, 1853.

CHAP. LXXX.—*An Act to Regulate the Fees and Costs to be allowed Clerks, Marshals, and Attorneys of the Circuit and District Courts of the United States, and for other purposes.*

[EXTRACTS.]

Fee bill in lieu of
former fees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of the compensation now allowed by law to attorneys, solicitors, and proctors in the United States courts, to United States district attorneys, clerks of the district and circuit courts, marshals, witnesses, jurors, commissioners, and printers, in the several States, the following and no other compensation shall be taxed and allowed. But this act shall not be construed to prohibit attorneys, solicitors, and proctors from charging to and receiving from their clients, other than the Government, such reasonable compensation for their services, in addition to the taxable costs, as may be in accordance with general usage in their respective States, or may be agreed upon between the parties.

This act not to
apply to charges
to clients.

Fees of Attor-
neys, &c., jury
trials, and final
hearings in equity
and admiralty.

Fees of Attorneys, Solicitors and Proctors. In a trial before a jury, in civil and criminal causes, or before referees, or on a final hearing in equity or admiralty,

a docket fee of twenty dollars: *Provided*, That in cases in admiralty and maritime jurisdiction, where the libellant shall recover less than fifty dollars, the docket fee of his proctor shall be but ten dollars.

In cases at law, where judgment is rendered without a jury, ten dollars, and five dollars where a cause is discontinued.

For scire facias and other proceedings on recognizances, five dollars.

For each deposition taken and admitted as evidence in the cause, two dollars and fifty cents.

A compensation of five dollars shall be allowed for the services rendered in cases removed from a district to circuit court by writ of error or appeal.

For examination by a district attorney, before a judge or commissioner, of a person or persons charged with crime, five dollars per day for the time necessarily employed.

For each day of his necessary attendance in a court of the United States, on the business of the United States, when the same shall be held at the place of his abode, five dollars, and the like sum for his attendance for each day of the term when the said court shall be held elsewhere.

For travelling from the place of his abode to the place of holding any court of the United States in his district, and to the place of any examination before a judge or commissioner, of a person or persons charged with crime, ten cents per mile for going and ten cents for returning.

When an indictment for crime shall be tried before a jury, and a conviction is had, in addition to the attorney's fees allowed by this act, the district attorney may be allowed a counsel fee in proportion to the importance and difficulty of the cause, not exceeding thirty dollars.

In every case where a district attorney has, during the last six years, prosecuted or defended a suit in which the United States was concerned, in a district where the law allows no taxable attorney's fees, and for which he has received no compensation, except his per diem and annual salary, he shall be paid for his services according to the provisions of this act.

For the services of counsel, rendered at the request

Law cases.

Proceedings on recognizances.

Depositions.

Cases removed.

Examination by district attorneys.

Attendance in court by district attorneys.

Travel of district attorneys.

In case of conviction on a criminal charge.

Fees in past cases.

Additional counsel.

of the head of a department, such sum as may be stipulated or agreed upon.

Joining of several charges in one indictment and consolidating indictments,

Whenever there are or shall be several charges against any person or persons for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offences which may be properly joined, instead of having several indictments, the whole may be joined in one indictment in separate counts; and if two or more indictments shall be found in such cases, the court may order them consolidated.

and revenue suits for seizures.

Whenever two or more things belonging to the same person or persons are or shall be seized for an alleged violation of the revenue laws, the whole shall be included in one suit; and if not so included, and separate actions are prosecuted, the court may consolidate them.

Provisions where indictments or suits or proceedings are unnecessarily separated.

Whenever two or more indictments, suits or proceedings, are or shall be prosecuted, which should be joined, the district attorney prosecuting them shall be paid but one bill of costs for all of them; and if any attorney, proctor, or other person admitted to manage or conduct causes in any court of the United States, or of the Territories thereof, shall appear to have multiplied the proceedings in any cause before such court, so as to increase costs unreasonably and vexatiously, such person may be required, by order of the court, to satisfy any excess of costs so increased.

Provisions as to writs and warrants in criminal cases.

Whenever two or more charges are or shall be made, or two or more indictments shall be found against a person, only one writ or warrant shall be necessary to arrest and commit him for trial; and it shall be sufficient to state in the writ the name or general character of the offences, or to refer to them only in very general terms. Only one writ or warrant shall be necessary to remove a prisoner from one district to another; a copy of which may be delivered to the sheriff or jailor from whose custody the prisoner may be taken, and another copy thereof to the sheriff or jailor to whose custody he may be committed, and the original writ, with the marshal's return thereon, shall be returned to the clerk of the district to which he may be removed. Whenever a prisoner is committed to a

Removal of prisoners.

sheriff or jailor by virtue of a writ, warrant, or mittimus, a copy thereof shall be delivered to the sheriff or jailor as his authority to hold the prisoner, and the original writ, warrant, or mittimus, shall be returned to the proper court or officer with the officer's return thereon.

Copy of writ, &c. to be delivered to the jailor.

Clerk's Fees. For issuing and entering every process, commission, summons, capias, execution, warrant, attachment, or other writ, except a writ of venire, summons, or subpoena for a witness, one dollar.

Clerk's fees.
Issuing processes.

For filing and entering every declaration, plea, or other paper, ten cents.

Filing papers.

For administering every oath or affirmation to a witness, or other person, except a juror, ten cents.

Oaths.

For entering any return, rule, order, continuance, judgment, decree, or recognizance, drawing any bond or making any record, certificate, return, or report, for each folio fifteen cents; and for a copy of any such entry or record, or of any paper on file, not exceeding one folio, ten cents; and for each additional folio, ten cents.

Entering orders, &c. and making records and copies.

For making dockets and indexes, and for all other services on the trial or argument of a cause, where issue is joined and testimony given, including venire and taxing costs, three dollars.

Other services in cases.

For making dockets and indexes, and for all other services in a cause where issue is joined and no testimony given, including taxing costs, two dollars.

For making dockets and indexes, and for taxing costs and other services, in a cause which is dismissed, discontinued, or a judgment or decree is made or rendered therein without issue, one dollar.

In equity and admiralty causes only, the process, pleadings, and decree, and such orders and memorandums as may be necessary to show the jurisdiction of the court and regularity of the proceedings, shall be entered upon the final record; and, in case of an appeal, copies of the proofs, and of such entries and papers on file as may be necessary on hearing of the appeal, may be certified up to the appellate court.

What shall be recorded in equity and admiralty cases.

Copies on appeal.

For affixing a seal of the court to any instrument when required, twenty cents. For issuing a writ of subpoena, twenty-five cents. For every search for any particular mortgage, judgment, or other lien, fifteen

Other services.

cents. For travelling from the office of the clerk, where he is required by law to reside, to the place of holding any court required to be held by law, five cents per mile for going and five cents for returning, and five dollars per day for his attendance on any such court or courts while actually in session.

For searching the records of the court for judgments, decrees, and other instruments constituting a general lien upon real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

For receiving, keeping, and paying out money, in pursuance of the requirements of any statute or order of court, one per cent. on the amount so received, kept, and paid.

In cases removed by writ of error or appeal, the clerk's fees for making docketts and taxing costs, shall be but one dollar, and the clerks of the district and circuit courts respectively, ex officio, shall be, and hereby are, authorized and empowered to administer oaths, take acknowledgments, take and certify affidavits and depositions in the same manner as commissioners, and shall be entitled to the same fees and compensation therefor.

Marshals' Fees.
Service of process.

Marshals' Fees. For service of any warrant, attachment, summons, capias, or other writ, (except execution, venire, or a summons or subpoena for a witness,) two dollars for each person on whom such service may be made: *Provided*, That on petition, setting forth the facts on oath, the court may allow such fair compensation for the keeping of personal property attached and held on mesne process, as shall, on examination, be found to be reasonable.

Proviso as to further compensation.

For serving a writ of subpoena on a witness, fifty cents; and no further compensation shall be allowed for any copy, summons, or notice for witness.

Travel.

For travel in going only to serve any process, warrant, attachment, or other writ, including writs of subpoena in civil and criminal cases, six cents per mile, to be computed from the place of service, to the court or place where the writ or process is returned; and if more than one person is sued therewith, the travel shall be computed from the court to the place of service which shall be the most remote, adding thereto

the extra travel, which shall be necessary to serve it on the other: *Provided*, That when more than two writs of any kind in behalf of the same party or parties, to be served on the same person or persons, or part of the same persons, are or might be served at the same time, the marshal shall be entitled to compensation for travel on only two of such writs; and to save unnecessary expense, it shall be the duty of the clerk to insert the names of as many witnesses in a cause, in such subpoena, as convenience in serving the same will permit. And in all cases where mileage is allowed to the marshal by this act, it shall be at his option to receive the same, or his actual travelling expenses, to be proved on his oath to the satisfaction of the court.

For each bail bond, fifty cents.

For summoning appraisers, each fifty cents.

For every commitment or discharge of a prisoner, fifty cents.

For every proclamation in admiralty, thirty cents.

For sales of vessels or other property, under process, in admiralty, or under the order of a court of admiralty, and for receiving and paying the money, for any sum under five hundred dollars, two and one half per centum; for any longer sum, one and one quarter per centum, upon the excess.

For serving an attachment *in rem* or a libel in admiralty, two dollars; and the necessary expense of keeping boats, vessels, or other property attached or libelled in admiralty, not exceeding two dollars and fifty cents per day; and in case the debt or claim shall be settled by the parties, without a sale of the property, the marshal shall be entitled to a commission of one per cent. on the first five hundred dollars of the claim or decree, and one half of one per cent. on the excess over five hundred dollars: *Provided*, That in case the value of the property shall be less than the claim, then, and in such case, such commission shall be allowed only on the appraised value thereof.

For serving a writ of possession, partition, execution, or any final process, the same mileage as is herein allowed for the service of any other writ; and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set-off,

Proviso.

Other things.

Sales, &c., in admiralty cases.

Serving process in admiralty.

Proviso.

Serving final process.

or otherwise, according to law, receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the several States, respectively, in which the service may be rendered.

Summoning Jurors. For serving venires and summoning every twelve men as grand or petit jurors, four dollars, or thirty-three and one third cents each; and in those States where jurors, by the laws of the State, are drawn by constables, or other officers of corporate towns or places, by lot, the marshal shall receive for the use of the officers employed in drawing and summoning the jurors and returning each venire, two dollars, and for his own trouble in distributing the venires, two dollars for each jury: *Provided*, That in no case shall the fees for distributing and serving venires, and drawing and summoning jurors by township officers, including mileage chargeable by the marshal for such service, at any court exceed fifty dollars.

Proviso.

Attendance on court. For travelling from his residence to the place of holding court, to attend a term thereof, ten cents per mile for going only, and five dollars per day for attending the circuit and district courts when they are both in session, or for attending either of said courts when but one is in session, and for bringing in and committing prisoners and witnesses during the term.

Deeds. For executing a deed prepared by a party or his attorney, one dollar.

For drawing and executing a deed, five dollars.

Transporting criminals. For transporting criminals, ten cents per mile for himself, each necessary guard, and each prisoner.

Copies. For copies of writs or papers furnished at the request of any party, ten cents per folio.

Courts of inquiry, &c. For holding a court of inquiry or other proceedings before a jury, including the summoning of a jury, five dollars.

Salary of marshal of South Carolina. The marshal of the district of South Carolina shall hereafter be entitled to receive a salary of two hundred dollars per annum.

Criers. The respective courts of the United States shall appoint criers for their courts, to be allowed the sum of two dollars per day; and the marshals are hereby authorized to appoint such a number of persons, not exceeding five, as the judges of their respective courts

Attendants.

shall determine, to attend upon the grand and other juries, and for other necessary purposes, who shall be allowed for their services the sum of two dollars per day, to be paid by and included in the accounts of the marshal, out of any money of the United States in his hands; the compensation to be given only for actual attendance; and when both courts are in session at the same time, to be paid but for attendance on one court.

For expenses while employed in endeavoring to arrest under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed two dollars per day, in addition to his compensation for service and travel.

Expenses of Arrest.

For disbursing money to jurors and witnesses, and for other expenses, two per centum.

Disbursing money.

For attending examinations before a commissioner, and bringing in, guarding, and returning prisoners charged with crime, and witnesses, two dollars per day, and the same for each deputy necessarily attending, not exceeding two.

Attending examinations, &c.

SEC. 2. *And be it further enacted*, That there shall be paid to the marshal his fees for services rendered for the United States, for summoning jurors and witnesses in behalf of the United States, and in behalf of any prisoner to be tried for a capital offence; for the maintenance of prisoners of the United States, confined in jail for any criminal offence; for the commitment or discharge of such prisoners; for the expenses necessarily incurred for fuel, lights and other contingencies that may accrue in holding the courts within the district, and providing the books necessary to record the proceedings thereof: *Provided*, That the marshal shall not incur an expense of more than twenty dollars in any one year for furniture, or fifty dollars for rent of building and making improvements thereon, without first submitting a statement and estimates to the Secretary of the Interior, and getting his instructions in the premises.

Marshals to be paid their fees, &c.

Contingencies of court.

Proviso as to furniture and rent.

SEC. 3. *And be it further enacted*, That every district attorney, clerk of a district court, clerk of a circuit court, and marshal of the United States, shall, until otherwise directed by law, upon the first day of January and July in each year, commencing with the

District Attorneys, clerks of court and marshal to render accounts to the Home Department.

first day of July next, or within thirty days from and after the days specified, make to the Secretary of the Interior, in such form as he shall prescribe, a return in writing, embracing all the fees and emoluments of their respective offices, of every name and character, distinguishing the fees and emoluments received or payable under the bankrupt act, from those received or payable for any other service; and in the case of a marshal, further distinguishing the fees and emoluments received or payable for services by himself personally rendered, from those received or payable for services rendered by a deputy; and also distinguishing the fees and emoluments so received or payable for services rendered by each deputy, by name, and the proportion of such fees and emoluments which, by the terms of his service, each deputy is to receive; and, also, embracing all the necessary office expenses of such officer, together with the vouchers for the payment of the same for the half year ending on the said first day, of January or July, as the case may be, which return shall be, in all cases verified by the oath of the officer making the same. And no district attorney shall be allowed by the said Secretary of the Interior to retain of the fees and emoluments of his said office, for his own personal compensation, over and above his necessary office expenses, the necessary clerk hire included, to be audited and allowed by the proper accounting officers of the treasury, a sum exceeding six thousand dollars per year, and at and after that rate for such time as he shall hold the office; and no clerk of a district court, or clerk of a circuit court, shall be allowed by the said Secretary to retain of the fees and emoluments of his said office, or, in case both of said clerkships shall be held by the same person of the said offices, for his own personal compensation, over and above the necessary expenses of his office, and necessary clerk hire included, also to be audited and allowed by the proper accounting officers of the treasury, a sum exceeding three thousand five hundred dollars per year, for any such district clerk, or circuit clerk, or at and after that rate for such time as he shall hold the office: *Provided*, That when the compensation of any clerk shall be less than five hundred dollars per annum, the difference, ascertained and allowed by the

Oath.

Limitation of
compensation of
district attor-
neys.

Of clerks.

Proviso.

proper accounting officer of the treasury, shall be paid to him therefrom; and no marshal shall be allowed by the said Secretary to retain of the fees and emoluments of his office, for his own personal compensation, over and above the proper allowance to his deputies, which shall in no case exceed three fourths of the fees and emoluments received as payable for the services rendered by the deputy to whom the allowance is made, and may be rendered below that rate by the said Secretary of the Interior whenever the return shall show that rate of allowance to be unreasonable, and over and above the necessary office expenses of the said marshal, the necessary clerk hire included, also to be audited and allowed by the proper accounting officers of the treasury, a sum exceeding six thousand dollars per year, or at and after that rate for such times as he shall hold the office; and every such officer shall, with each such return made by him, pay into the treasury of the United States, or deposit to the credit of the Treasurer thereof, as he may be directed by the Secretary of the Interior, any surplus of the fees and emoluments of his office, which his half-yearly return so made as aforesaid shall show to exist over and above the compensation and allowances hereinbefore authorized to be retained and paid by him. And in every case where the return of any such officer shall show that a surplus may exist, the said Secretary of the Interior shall cause such returns to be carefully examined, and the accounts of disbursements to be regularly audited by the proper officers of his department, and an account to be opened with such officer in proper books to be provided for that purpose, and the allowances for personal compensation for each calendar year shall be made from the fees and emoluments of that year, and not otherwise: *And provided, further,* That nothing in any existing law of Congress authorizing the payment of a per diem compensation to a district attorney, clerk of a district court, or clerk of a circuit court, or marshal, or deputy marshal, for attendance upon the district or circuit courts during their sittings, shall be so construed as to authorize any such payment to any one of those officers for attendance upon either of those courts while sitting for the transaction of business under the bankrupt law merely, or

Of marshals.

Surplus of fees.

Allowance to be made on yearly fees only.

Proviso.

No allowance for attendance on court at certain days.

for any portion of the time for which either of the said courts may be held open or in session by the authority conferred in that law; and no such charge in an account of any such officer shall be certified as payable, or shall be allowed and paid out of the money hereinbefore appropriated for defraying the expenses of the courts of the United States. And no per diem or other allowance shall be made to any such officer for attendance at rule days of the circuit or district courts; and when the circuit and district courts sit at the same time, no greater per diem or other allowance shall be made to any such officer than for an attendance on one court.

Commissioners' fees.

Commissioners' Fees. For administering an oath, ten cents; taking an acknowledgment, twenty-five cents.

For hearing and deciding on criminal charges, five dollars per day for the time necessarily employed.

For attending to a reference in a litigated matter in a civil cause at law, in equity, or in admiralty, in pursuance of an order of court, three dollars per day.

For taking and certifying depositions to file, twenty cents for each folio of one hundred words, and ten cents per folio for each copy of the same furnished to a party on request.

For issuing any warrant, or writ, or any other service, the same compensation as is allowed to clerks for like services.

For issuing any warrant under the tenth article of the treaty of the ninth of August, eighteen hundred and forty-two, between the United States and the Queen of the United Kingdom of Great Britain and Ireland, against any person charged with any of the crimes or offences set forth in said article, two dollars; and the same sum for any warrant issued under the provisions of the convention for the surrender of criminals, between the United States and the King of the French, concluded at Washington on the ninth of November, eighteen hundred and forty-three; and for hearing and deciding upon the case of any person charged with any offence or crime, and arrested under the provisions of said treaty, or convention, five dollars per day for the time necessarily employed.

Witnesses' fees.

Witnesses' Fees. For each day's attendance in court,

or before any officer pursuant to law, one dollar and fifty cents, and five cents per mile for travelling from his place of residence to said place of trial or hearing, and five cents per mile for returning. When a witness is subpoenaed in more than one cause between the same parties in different suits at the same court, but one travel fee and one per diem compensation shall be allowed for attendance, to be taxed in the first case disposed of, and "per diem" only in the other causes, to be taxed from that time in each case, in the order in which they may be disposed of.

When a witness is detained in prison for want of security for his appearance, he shall be entitled to a compensation of one dollar per day over and above his subsistence.

When a clerk or other officer of the United States shall be sent away from his place of business as a witness for the Government, either with or without papers or books, his salary shall continue; his necessary expenses, stated in items and sworn to, in going, returning, and attendance on the court, shall be audited and paid, but no mileage nor other compensation shall in any case be allowed.

Fees of salaried officers.

There shall be paid to such seamen or other person as has been or shall be sent to the United States from any foreign port, station, sea, or ocean, by any United States Minister, Chargé d'Affaires, Consul, Commander, or Captain, to give testimony in any criminal case which has been or may be depending in any court of the United States, such compensation as the court which had or shall have cognizance of the crime, shall adjudge to be right and proper, not to exceed one dollar for each day the said seaman or person has been or shall be necessarily on the voyage, and arriving at the place of examination or trial, exclusive of sustenance and transportation; the court to take into consideration, in fixing said compensation, the condition of said seaman or witness; whether his voyage has been broken up, to his injury, by his being sent to the United States, or not.

If said seaman or person has been or shall be transported in an armed vessel of the United States, no charge for sustenance or transportation shall be made; if in any other vessel, the court may adjudge what

compensation shall be paid to the captain of said vessel, and the same shall be paid accordingly: *Provided*, That in no case shall transportation and subsistence be allowed at a rate exceeding fifty cents per diem.

Proviso.

Jurors' fees.

Jurors' Fees. For actual attendance at any court or courts, two dollars per day during such attendance.

For travelling from their residence to said court or courts, five cents per mile for going, and the same for returning.

Printers' fees.

Printers' Fees. For publishing any statute, notice, or order required by law, or the lawful order of any court, department, bureau, or other person, in any newspaper, forty cents per folio for the first insertion, and twenty cents per folio for each subsequent insertion. That the compensation herein provided shall include the furnishing lawful evidence, under oath, of publication, to be made and furnished by the printer or publisher making such publication.

The term folio, in this act, shall mean one hundred words, counting each figure as a word. When there are over fifty and under one hundred words, they shall be counted as one folio, but not when there are less, except when the whole statute, notice, or order contains less than fifty words.

What of the above items are taxable as costs.

The bill of fees of clerk, marshal, and attorneys, and the amount paid printers, and witnesses, and lawful fees for exemplifications and copies of papers necessarily obtained for use on trial in cases where by law costs are recoverable in favor of the prevailing party, shall be taxed by a judge or clerk of the court, and be included in and form a portion of a judgment or decree against the losing party. Such taxed bills shall be filed with the papers in the cause.

Marshal to pay jurors and witnesses.

In cases where the United States are parties, the marshal shall, on the order of the court, to be entered in its minutes, pay to the jurors and witnesses all such fees as they may appear by such order to be entitled to, which sums shall be allowed him at the treasury in his accounts.

Fees of said officers, how paid.

The fees of the marshals, clerks, commissioners, and district attorneys, in cases where the United States are liable to pay the same, shall be paid on settling their accounts at the treasury, such accounts to be

made out and verified by the party under oath, and forwarded to the First Auditor of the Treasury.

In prize cases, where there is a condemnation and sale, the costs, so far as they are payable and can be paid out of the proceeds of sale, shall be paid on the order of the court upon the filing of the taxed bills, making them a portion of the record in the case.

No district attorney, marshal, or clerk, or their deputies, shall receive any other or greater compensation for any services rendered by him than is provided in this act; and all acts and parts of acts, allowing to either of them any other or greater fees than is herein provided, are hereby repealed, and to receive any other or greater compensation is hereby declared to be a misdemeanor. And if any officer hereinbefore mentioned, or his deputy, shall, by reason or cover of his office, wilfully and corruptly demand and receive any other or greater fees than those allowed in this act, he shall, on conviction thereof in any court of the United States, forfeit and pay a fine not exceeding five hundred dollars, and be imprisoned not exceeding six months, at the discretion of the court before whom the conviction shall be had. But this shall not be construed to prohibit the payment of any salary authorized by statute: *Provided*, That in the State of California and the Territory of Oregon, officers, jurors, and witnesses shall be allowed, for the term of two years, double the fees and compensation allowed by this act, and the same fees allowed by this act, with fifty per cent. added thereto, for two years thereafter.

That before any bill of costs shall be taxed by any judge or other officer, or allowed by any officer of the treasury, in favor of clerks, marshals, commissioners, or district attorneys, the party claiming such bill shall prove by his own oath, or some other person having a knowledge of the facts, to be attached to such bill, and filed therewith, that the services charged therein have been actually and necessarily performed, as therein stated.

That witnesses who are required to attend any term of the court on the part of the United States, shall be subpoenaed to attend to testify generally on their behalf, and not depart the court without leave of the court or district attorney, under which it shall be their

Costs in prize cases.

Penalty for receiving greater fees.

Repeal of former provisions.

Proviso.

Double fees in Oregon and California.

Bill of costs of clerks, &c., to be sworn to.

Witnesses, attendance of.

Bringing into court and remanding prisoners.

Penalty for perjury.

Repeal of inconsistent laws, save act of 1850, ch. 60, respecting fugitives from labor. *Provide.*

duty to appear before the grand jury or petit jury, or both, as they shall be required by the court or district attorney. No writ shall be necessary to bring into court any prisoner or person in custody, or for remanding him from the court into custody; but the same shall be done on the order of the court or district attorney, for which no fee shall be charged by the clerk or marshal.

SEC. 4. *And be it further enacted,* That if any person shall falsely take an oath or affirmation in relation to any matter authorized by this act, such person shall be deemed guilty of perjury, and upon conviction thereof shall suffer the pains and penalties in that case provided.

SEC. 5. *And be it further enacted,* That all laws and regulations heretofore made, which are incompatible with the provisions of this act, are hereby repealed and abrogated: *Provided, nevertheless,* That this act shall not be construed to repeal or modify any clause or provision of an act approved the eighteenth September, eighteen hundred and fifty, entitled "An act to amend, and supplementary to the act entitled 'An act respecting fugitives from justice, and persons escaping from the service of their masters,' approved February twelfth, seventeen hundred and ninety-three."

APPROVED, February 26, 1853.

Feb. 26, 1853.

CHAP LXXXI—*An Act to prevent Frauds upon the Treasury of the United States.*

Transfers of claims on United States, how and when legal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all transfers and assignments hereafter made of any claim upon the United States, or any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof.

SEC. 2. *And be it further enacted*, That any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any executive department of the Government of the United States, or under the Senate or House of Representatives of the United States, who, after the passage of this act, shall act as an agent or attorney for prosecuting any claim against the United States, or shall in any manner, or by any means, otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, or shall receive any gratuity, or any share of or interest in any claim from any claimant against the United States, with intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction thereof, and, on conviction, shall pay a fine not exceeding five thousand dollars, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court in its discretion shall adjudge.

Officers, &c., forbidden to be interested in claims, or act for claimants.

Penalty.

SEC. 3. *And be it further enacted*, That any Senator or Representative in Congress who, after the passage of this act, shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner or by any means for such compensation aid or assist in the prosecution or support of any such claim or claims, or shall receive any gratuity, or any share of or interest in any claim from any claimant against the United States, with intent to aid or assist, or in consideration of having aided or assisted in the prosecution of such claim, shall be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction thereof, and, on conviction, shall pay a fine not exceeding five thousand dollars, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court in its discretion shall adjudge.

Members of Congress also forbidden.

Penalty.

SEC. 4. *And be it further enacted*, That any person who shall wilfully and knowingly destroy, or attempt to destroy, or with intent to steal or destroy, shall take and carry away any record, paper, or proceeding

Penalty for destroying, &c., records, &c.

of a court of justice, filed or deposited with any clerk or officer of such court, or any paper or document or record filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document, or proceeding, so taken, be deemed guilty of felony, and on conviction in any court of the United States having jurisdiction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge.

Same subject.

SEC. 5. *And be it further enacted*, That any officer having the custody of any record, document, paper, or proceeding specified in the last preceding section of this act, who shall fraudulently take away, or withdraw, or destroy any such record, document, paper, or proceeding filed in his office or deposited with him, or in his custody, shall be deemed guilty of felony, and on conviction in any court of the United States having jurisdiction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge, and shall forfeit his office and be forever afterwards disqualified from holding any office under the Government of the United States.

Penalty for bribery, or undue influencing of members of Congress.

SEC. 6. *And be it further enacted*, That if any person or persons shall, directly or indirectly, promise, offer, or give, or cause or procure to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any member of the Senate or House of Representatives of the United States, after his election as such member, and either before or after he shall have qualified and taken his seat, or to any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any department of the Government of the United States, or under the Senate or House of Representatives of the United States, after the passage of this act, with intent to influence his vote or

decision on any question, matter, cause, or proceeding which may then be pending, or may by law, or under the Constitution of the United States, be brought before him in his official capacity, or in his place of trust or profit, and shall be thereof convicted, such person or persons so offering, promising, or giving, or causing or procuring to be promised, offered, or given any such money, goods, right in action, bribe, present or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or other valuable thing whatever, and the member, officer, or person who shall in anywise accept or receive the same, or any part thereof, shall be liable to indictment as for a high crime and misdemeanor in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, or given, and imprisoned in a penitentiary not exceeding three years; and the person convicted of so accepting or receiving the same, or any part thereof, if an officer or person holding any such place of trust or profit as aforesaid, shall forfeit his office or place; and any person so convicted under this section shall forever be disqualified to hold any office of honor, trust, or profit, under the United States.

SEC. 7. *And be it further enacted*, That the provisions of this act, and the act of July twenty-ninth, eighteen hundred and forty-six, entitled "An act in relation to the payment of claims," shall apply and extend to all claims against the United States, whether allowed by special acts of Congress, or arising under general laws or treaties, or in any other manner whatever.

SEC. 8. *And be it further enacted*, That nothing in the second and third sections of this act contained shall be construed to apply to the prosecution or defence of any action or suit in any judicial court of the United States.

Extent of this act and act of 1846, ch. 66.

Sections 2 and 3 not to apply to suits in court.

APPROVED, February 26, 1853.

July 27, 1854.

CHAP. CVII.—*An Act to Increase the Salaries of Executive and Judiciary Officers in Oregon, New Mexico, Washington, Utah, and Minnesota.*

[EXTRACT.]

Salary of chief justice and associate Judges of certain territories.

Salary of governor of New Mexico.

Salary of the secretaries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annual salaries of the Chief Justices and Associate Judges of the Territories of Oregon, Washington, Utah, and New Mexico, be, and the same are hereby, increased to the sum of two thousand five hundred dollars each; and that the salary of the Governor of New Mexico be, and the same is hereby, increased to the sum of three thousand dollars; and that of the Secretaries of Oregon, Washington, Utah, and New Mexico, to the sum of two thousand dollars per annum.

APPROVED, July 27, 1854.

July 29, 1854.

1850, ch. 52.

CHAP. CLIX.—*An Act supplementary to an Act entitled "An Act to authorize Notaries Public to take and certify Oaths, Affirmations and Acknowledgments in certain cases."*

[EXTRACT.]

Depositions taken before notaries to have same force in courts as those taken before certain commissioners.

SEC. 2. *And be it further enacted, That notaries public be and they are hereby authorized to take depositions and do such other acts in relation to evidence to be used in the courts of the United States, in the same manner and with the same effect, as commissioners to take acknowledgments of bail and affidavits may now lawfully take or do.*

APPROVED, July 29, 1854.

Aug. 3, 1854.

CHAP. CCI.—*An Act to vest in the several States and Territories the title in fee of the Lands which have been or may be certified to them.*

Fee simple to pass in all grants of land to States and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where lands have been, or shall hereafter be, granted by any law of Congress to any one of the several States and Territories; and where said law does not convey the fee-simple title of such lands, or require patents to be issued therefor; the lists of such lands which have been, or may hereafter

be certified by the Commissioner of the General Land-Office, under the seal of said office, either as originals, or copies of the originals or records, shall be regarded as conveying the fee simple of all the lands embraced in such lists that are of the character contemplated by such act of Congress, and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, said lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

APPROVED, August 3, 1854.

CHAP. X.—*An Act to authorize the issue of Patents to Lands in any State or Territory, in certain cases.* Dec. 22, 1854.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of patents, it shall and may be lawful, where surveys for the land have been or may hereafter be made, to issue patents for the claims so confirmed, upon the presentation to the Commissioner of the General Land-Office of plats of survey thereof, duly approved by the surveyor-general of any State or Territory, if the same be found correct by the said commissioner: *Provided,* That such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right, if such exist, to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land.

Patents to issue for all lands heretofore granted.

Effect of the patent.

APPROVED, December 22, 1854.

Feb. 10, 1855.

CHAP. LXXI.—*An Act to secure the Right of Citizenship to the Children of Citizens of the United States born out of the Limits thereof.*

Citizenship of
children of citi-
zens, born abroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That persons heretofore born, or hereafter to be born, out of the limits and jurisdiction of the United States, whose fathers were or shall be at the time of their birth citizens of the United States, shall be deemed and considered and are hereby declared to be citizens of the United States: *Provided, however,* That the rights of citizenship shall not descend to persons whose fathers never resided in the United States.

Citizenship of
married women.

SEC. 2. *And be it further enacted,* That any woman who might lawfully be naturalized under the existing laws, married, or who shall be married to a citizen of the United States, shall be deemed and taken to be a citizen.

APPROVED, February 10, 1855.

Feb. 21, 1855.

CHAP. CXVII.—*An Act to establish the Office of Surveyor-General of Utah, and to grant Land for School and University Purposes.*

Appointment of
a surveyor-gener-
al for Utah.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for Utah, whose annual salary shall be three thousand dollars, and whose power, authority, and duties, shall be the same as those provided by law for the surveyor-general of Oregon, prior to the act of July seventeen, eighteen hundred and fifty-four: and he shall locate his office from time to time at such places as may be directed by the President of the United States.

Salary, power,
and duties.
1854, ch. 84.

Reservation for
schools.

SEC. 2. *And be it further enacted,* That when the lands in said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory,

and in the States and territories hereafter to be created out of the same.

SEC. 3. *And be it further enacted*, That when the lands in said territory shall be surveyed as aforesaid, a quantity of land equal to two townships shall be, and the same is hereby, reserved for the establishment of a university in said territory, and in the State hereafter to be created out of the same, to be selected under the direction of the legislature, in legal subdivisions of not less than one half section, and to be disposed of as said legislature may direct.

Reservation for
an university.

SEC. 4. *And be it further enacted*, That full power and authority are hereby given to the Secretary of the Interior to issue all needful rules and regulations for fully carrying into effect the several provisions of this act.

Rules and regulations
authorized.

APPROVED, February 21, 1855.

CHAP. CXI.—*An Act to prevent Mis trials in the District and Circuit Courts of the United States, in certain cases.*

March 2, 1855.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the trial or hearing of any cause, civil or criminal, in any circuit or district court in the United States, which has been commenced and is in progress before a jury or the court, shall not be stayed or discontinued by the arrival of the period fixed by law for another session of said court, and it shall be lawful for the court to proceed with such trial or hearing, and bring it to a conclusion, in like manner and with the same effect, as if another stated term of the court had not intervened.

Cases commenced
before a jury
may be continued
on trial after the
period for a new
term of court.

SEC. 2. *And be it further enacted*, That where letters rogatory shall have been addressed, from any court of a foreign country to any circuit court of the United States, and a United States commissioner designated by said circuit court to make the examination of witnesses in said letters mentioned, said commissioner shall be empowered to compel the witnesses to appear and dispose in the same manner as to appear and testify in court.

Subpoenas to wit-
nesses under let-
ters rogatory.

APPROVED, March 2, 1855.

March 3, 1855.

CHAP. CLXXV.—*An Act making Appropriations for the Civil and Diplomatic Expenses of Government, for the year ending the thirtieth of June, eighteen hundred and forty-six, and for other Purposes.*

[EXTRACT.]

SEC. 12. *And be it further enacted,* * **

Fees of officers of
courts in territo-
ries.
1853, ch. 80.

That the provisions of the act of February twenty-sixth, eighteen [hundred] and fifty three, "to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," are hereby extended to the Territories of Minnesota, New Mexico, and Utah, as fully, in all particulars, as they would be, had the word "Territories" been inserted in the sixth line after the word "States," and the same had read, "in the several States and in the Territories of the United States." This clause to take effect from and after the date of said act, and the accounting officers will settle the accounts within its purview, accordingly.

APPROVED, March 3, 1855.

March 3, 1855.

CHAP. CCI.—*An Act making Appropriations for Services of the Post-Office Department during the fiscal year, ending the thirtieth of June, one thousand eight hundred and forty six.*

[EXTRACT.]

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* * * **

Mail contractors
in territories may
establish sta-
tions, and have
pre-emption right
thereto.

And that each contractor engaged, or to be engaged in carrying mails through any of the Territories west of the Mississippi, shall have the privilege of occupying stations at the rate of not more than one for every twenty miles of the route on which he carries a mail, and shall have a pre-emptive right therein, when the same shall be brought into market, to the extent of six hundred and forty acres to be taken contiguously, and to include his improvement; but no such pre-emptive right shall extend to any pass in a mountain or other defile.

APPROVED, March 3, 1855.

CHAP. CCIV.—*An Act making Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the year ending June thirtieth, one thousand eight hundred and fifty-six, and for other Purposes.*

March 3, 1855.

[EXTRACTS.]

SEC. 8. *And be it further enacted*, That the laws of the United States punishing the crimes of forgery, or of depredations upon the mails of the United States, be, and the same are hereby, extended to, and declared to be in full force in the Indian country.

Laws respecting forgery and depredations on the mails, extended to the Indian country.

SEC. 10. *And be it further enacted*, That Indian agents be, and they are hereby authorized, to take acknowledgments of deeds, and other instruments of writing, and to administer oaths in investigations committed to them in the Indian country, pursuant to such rules and regulations as may be prescribed for that purpose, by the Secretary of the Interior, and that acknowledgments so taken shall have the same effect as if taken before a justice of the peace.

Indian agents authorized to administer oaths and take acknowledgments of deeds.

APPROVED, March 3, 1855.

CHAP. CCVII.—*An Act in Addition to certain Acts granting Bounty Land to certain Officers and Soldiers who have been engaged in the Military Service of the United States.*

March 3, 1855.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non-commissioned, seaman, ordinary seaman, flotilla-man, marine, clerk, and landsman in the navy, in any of the wars in which this country has been engaged since seventeen hundred and ninety, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land; and where any of those who have so been mus-

1847, ch. 8.
1848, ch. 49.
1850, ch. 85.
1852, ch. 19.
1853, ch. 8.
1854, ch. 10, 248.
207, § 3.

Additional grant of bounty lands to soldiers, sailors, &c.

tered into service and paid shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may have heretofore received, one hundred and sixty acres to each such person having served as aforesaid: *Provided*, The person so having been in service shall not receive said land warrant if it shall appear by the muster-rolls of his regiment or corps that he deserted, or was dishonestly discharged from service: *Provided further*, That the benefits of this section shall be held to extend to wagon-masters and teamsters who may have been employed, under direction of competent authority in time of war in the transportation of military stores and supplies.

Deserters, &c.
excepted.

Wagon-masters
and teamsters in-
cluded.

Provision for
widows and chil-
dren.

SEC. 2. *And be it further enacted*, That in case of the death of any person who, if living, would be entitled to a certificate or warrant as aforesaid under this act, leaving a widow, or, if no widow, a minor child or children, such widow, or, if no widow, such minor child or children, shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would be entitled to receive under the provisions of this act, if now living: *Provided*, That a subsequent marriage shall not impair the right of any such widow to such warrant if she be a widow at the time of making her application: *And provided, further*, That those shall be considered minors who are so at the time this act shall take effect.

Fourteen days
services required,
except where
claimant was in a
battle.

SEC. 3. *And be it further enacted*, That in no case shall any such certificate or warrant be issued for any service less than fourteen days, except where the person shall actually have been engaged in battle, and unless the party claiming such certificate or warrant shall establish his or her right thereto by record evidence of said service.

Warrants, &c.
made assignable.

SEC. 4. *And be it further enacted*, That said certificates or warrants may be assigned, transferred, and located by the warrantees, their assignees, or their heirs-at-law, according to the provisions of existing laws regulating the assignment, transfer, and location of bounty-land warrants.

Where warrants
may be located.

SEC. 5. *And be it further enacted*, That no warrant issued under the provisions of this act shall be located on any public lands, except such as shall at the time

be subject to sale at either the minimum or lower graduated prices.

SEC. 6. *And be it further enacted*, That the registers and receivers of the several land-offices shall be severally authorized to charge, and receive for their services, in locating all warrants under the provisions of this act, the same compensation or percentage to which they are entitled by law, for sales of the public lands, for cash, at the rate of one dollar and twenty-five cents per acre; the said compensation to be paid by the assignees or holders of such warrants.

Pay of registers and receivers, for locating said warrants.

SEC. 7. *And be it further enacted*, That the provisions of this act, and all the bounty-land laws heretofore passed by Congress, shall be extended to Indians, in the same manner, and to the same extent, as if the said Indians had been white men.

Indians included.

SEC. 8. *And be it further enacted*, That the officers and soldiers of the revolutionary war, or their widows or minor children, shall be entitled to the benefits of this act.

Revolutionary soldiers included.

SEC. 9. *And be it further enacted*, That the benefits of this act shall be applied to and embrace those who served as volunteers at the invasion of Plattsburg, in September, eighteen hundred and fourteen; also at the battle of King's Mountain, in the revolutionary war, and the battle of Nickojock, against the confederated savages of the South.

Also volunteers at Plattsburg, King's Mountain, and Nickojock.

SEC. 10. *And be it further enacted*, That the provisions of this act shall apply to the chaplains who served with the army, in the several wars of the country.

Also to Chaplains.

SEC. 11. *And be it further enacted*, That the provisions of this act be applied to those who served as volunteers at the attack on Lewistown, in Delaware, by the British fleet, in the war of eighteen hundred and twelve—fifteen.

Also to the volunteers at Lewistown, Del.

APPROVED, March 3, 1855.

May 14, 1856.
1856, ch. 207.

CHAP. XXVI.—*An Act to amend the Act in addition to certain Acts granting Bounty Land to certain Officers and Soldiers who have been engaged in the Military Service of the United States, approved March third, eighteen hundred and fifty five.*

Former evidence
of right to bounty
land to be received
in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where a certificate or warrant for bounty land for any less quantity than one hundred and sixty acres, shall have been issued to any officer or soldier, or to the widow or minor child or children of any officer or soldier, under existing laws, the evidence upon which such certificate or warrant was issued shall be received to establish the service of such officer or soldier in the application of himself, or of his widow or minor child or children, for a certificate or warrant for so much land as may be required to make up the full sum of one hundred and sixty acres, on proof of the identity of such officer or soldier, or in case of his death, of the marriage and identity of his widow, or in case of her death, of the identity of his minor child or children: *Provided, nevertheless,* That if, upon a review of such evidence, the Commissioner of Pensions shall not be satisfied that the former certificate or warrant was properly granted, he may require additional evidence, as well of the term as of the fact of service.

Proviso.

Former evidence
of right to a pension
to be received in certain
cases on application
for bounty land.

SEC. 2. *And be it further enacted,* That in all cases where a pension has been granted to any officer or soldier, the evidence upon which such pension was granted shall be received to establish the service of such officer or soldier in his application for bounty land under existing laws; and upon proof of his identity as such pensioner, a certificate or warrant may be issued to him for the quantity of land to which he shall be entitled; and in case of the death of such pensioned officer or soldier, his widow shall be entitled to a certificate or warrant for the same quantity of land to which her husband would have been entitled, if living, upon proof that she is such widow, and in case of the death of such officer or soldier, leaving a minor child or children and no widow, or where the widow may have deceased before the issuing of any certificate or warrant, such minor child or children shall be entitled to a certificate or warrant for the same quantity of land as the father would have been entitled

Rights of widows
and children.

to receive if living, upon proof of the decease of the father and mother: *Provided, nevertheless*, That if, upon a review of such evidence, the Commissioner of Pensions shall not be satisfied that the pension was properly granted, he may require additional evidence, as well of the term as of the fact of service.

Provide.

SEC. 3. *And be it further enacted*, That so much of the third section of the "Act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March third, eighteen hundred and fifty-five, as requires the party claiming a certificate or warrant, under the provisions of said act, to establish his or her right thereto, by record evidence of the service for which such certificate or warrant has been or may be claimed, be, and the same is hereby, repealed, and parol evidence, where no record evidence exists, may be admitted to prove the service performed, under such rules and regulations as the Commissioner of Pensions may prescribe.

So much of act of 1855, ch. 207, as requires record evidence of service, repealed.

Parol evidence of service may be received where no record evidence exists.

SEC. 4. *And be it further enacted*, That the eighth section of the act above mentioned, approved the third day of March, in the year eighteen hundred and fifty-five, shall be construed as embracing officers, marines, seamen, and other persons engaged in the naval service of the United States during the revolutionary war, and the widows and minor children of all such officers, marines, seamen, and other persons engaged as aforesaid.

Act of 1855, ch. 207, § 8, extended to naval officers, &c., in revolutionary war and their widows, &c.

SEC. 5. *And be it further enacted*, That the provisions of the said act shall extend to all persons who have served as volunteers with the armed forces of the United States, subject to military orders, for the space of fourteen days, in any of the wars specified in the first section of the said act, whether such persons were or were not mustered into the service of the United States.

Act of 1855, ch. 207, extended to volunteers who were not mustered into service.

SEC. 6. *And be it further enacted*, That the widows and minor children of all such persons as are specified in the last preceding section of this act, and are now dead, shall be entitled to the same privileges as the widows and minor children of the beneficiaries named in the act to which this is an amendment.

Same subject.

SEC. 7. *And be it further enacted*, That when any

Allowance of time of service for distance from home to place of muster or discharge.

company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty miles from the place where such company, battalion, or regiment was organized, in all such cases, in computing the length of service of the officers and soldiers of any company, battalion, or regiment, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized to the place where the same was mustered into the service of the United States, and also one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched to enter the service: *Provided*, That such march was in obedience to the command or direction of the President of the United States, or some general officer of the United States, commanding an army or department, or the chief executive officer of the State or Territory by which such company, battalion, or regiment was called into service.

Proviso

APPROVED, May 14, 1856.

Aug. 16, 1856.

CHAP. CXXIV.—*An Act to amend the acts regulating the Fees, Costs, and other judicial Expenses of the Government in the States, Territories, and District of Columbia, and for other Purposes.*

[EXTRACTS.]

Accounts of marshals, attorneys and clerks to be certified by District Judge before revision.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter, before the accounts of the United States marshals, district attorneys, and clerks, are presented to the accounting officers of the Treasury Department for settlement, they shall be examined and certified to by the district judge of the United States in the district in which the officers presenting the accounts officiate, whether in the States or Territories, and the same shall be subject to revision upon their merits by said accounting officers, as in case of other public accounts: *Provided, however*, That no accounts of fees or costs paid to any witness or juror, upon the order of any judge or commissioner, shall be so re-

Marshal not to be charged for erroneous amounts paid to jurors or witnesses under order.

examined as to charge any marshal for an erroneous taxation of such fees or costs.

SEC. 2. *And be it further enacted*, That the accounts of the commissioners of the United States circuit courts shall be examined and certified to by the district judge of the district in which they are appointed, previous to their presentation to, or revision by, the accounting officers of the Treasury Department.

Accounts of commissioners to be certified by judge.

SEC. 3. *And be it further enacted*, That in no case shall the fees of more than four witnesses be taxed against the United States in the examination of criminal cases before the commissioners of the United States circuit courts, unless their materiality and importance shall first be approved and certified to by the United States district attorney for the district in which the examination shall take place, subject to revision, as in other cases.

Only four witnesses to be taxed against United States before commissioners, unless, &c.

SEC. 4. *And be it further enacted*, That in all these cases before mentioned, an appeal shall lie from the decision of the accounting officers to the Secretary of the Interior.

Appeal given.

SEC. 5. *And be it further enacted*, That the judges of the supreme court in each of the Territories, or a majority of them, shall, when assembled at their respective seats of government, fix and appoint the several times and places of holding the several courts in their respective districts, and limit the duration of the terms thereof: *Provided*, That the said courts shall not be held at more than three places in any one Territory: *And provided, further*, That the judge or judges holding such courts shall adjourn the same, without day, at any time before the expiration of such terms, whenever in his or their opinion the further continuance thereof is not necessary.

Judges of Supreme Courts of Territories may fix the times and places of their courts.

SEC. 7. *And be it further enacted*, That the several circuit and district courts of the United States, the district courts of the Territories, and the criminal court of the District of Columbia, shall have the power to discharge the grand juries of the respective courts whenever they shall be of opinion that the public interests will not be subserved by a further continuance of the session of said grand jury.

Provisos.

Courts may discharge grand juries.

SEC. 8. *And be it further enacted*, That no officer of the United States courts, including the bailiffs,

No officer of court to have witness fees.

guards, or deputies of the United States marshals, whether in the States, Territories, or District of Columbia, shall be entitled to witness fees, either before a court or commissioners where he is officiating.

Clerks of Supreme Courts of Territories.

SEC. 10. *And be it further enacted*, That it shall be the duty of each of the judges of the supreme court of the respective Territories of the United States to designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and to designate and retain but one such clerk where more than one is already appointed, and only such district clerks shall be entitled to a compensation from the United States except for fees taxable to the United States.

So much of act of 1853, ch. 80, § 3, as provides for making up salaries of clerks to \$500, repealed.

SEC. 11. *And be it further enacted*, That so much of the third section of the act of February twenty-six, eighteen hundred and fifty-three, entitled "An act to regulate the fees and costs to be allowed to clerks, marshals and attorneys of the circuit and district courts of the United States, and for other purposes," as requires "that when the compensation of any clerk shall be less than five hundred dollars per annum, the difference ascertained and allowed by the proper accounting officers of the treasury shall be paid to him therefrom," is hereby repealed.

Accounts for services when U. States are a party in interest merely, or when officers are sued, payment of.

SEC. 12. *And be it further enacted*, That all accounts of the United States district attorneys for services rendered in cases instituted in the United States or State courts, when the United States is a party in interest, but not of record; or in cases instituted against the officers of the United States or their deputies, or duly appointed agents, for acts committed or omitted or suffered by them in the lawful discharge of their duties, shall be audited and allowed as in other cases, assimilating the fees, as near as may be, to those provided by said act of February twenty-six, eighteen hundred and fifty-three for like or similar services.

No marshal or deputy to be commissioner.

SEC. 13. *And be it further enacted*, That no marshal, or deputy marshal, of any of the courts of the United States, shall hold or exercise the duties of commissioner of any of said courts, nor receive compensation therefor.

District Attorneys may appoint

SEC. 14. *And be it further enacted*, That whenever, from any cause, it may be impossible for the district

attorney to attend at court, it shall be his duty to see that a meet and proper person, learned in the law, residing as near the place where the court is held as possible, does attend to such business as may appertain to the duties of his office, and in all such cases the fees and charges to be paid shall be only such as the district attorney would have been authorized by law to charge had he personally attended and performed the service: *Provided, however,* That before any such substitution is sanctioned, or payment made, the necessity thereof shall be shown to the satisfaction of the Secretary of the Interior.

substitutes in
certain cases.

How paid.

SEC. 15. *And be it further enacted,* That all provisions of law inconsistent with this act are hereby repealed.

Inconsistent laws
repealed.

APPROVED, August 16, 1856.

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